



CrI.O.P.No.3898 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.3898 of 2025

and

CrI.M.P.Nos.2521 & 2522 of 2025

1. C.Senthil Kumar
2. Govindaraj
3. B.Chinnakannu
4. R.Muthukrishnan @ Muthusamy
5. A.Angamuthu
6. G.Veerapandi @ Senthil
7. S.Ranjith
8. Boopalan

..... Petitioners

Vs

- 1.The State,
Rep. by The Inspector of Police,
Edappadi Police Station,
Salem.
Crime No.414 of 2021

2. Sithuraj
- Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in pertaining to the C.C.No.240 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate Court, Edappadi, pertaining to the case in Crime No.414 of 2021 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.R.Chakkaravarthy
For R1 : Mr. K.M.D.Muhilan
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.240 of 2022 on the file of the learned Disitrect Munsif-cum-Judicial Magistrate, Edappadi, thereby taken cognizance for the offences under Sections 147, 148, 294(b), 323, 324, 354 and 506(2) of IPC and Section 4 of TNWPH Act, 2002 and Section 3 of TNPPDL Act, 1992.

2. The case of the prosecution is that there is a land dispute between A1 and the defacto complainant. On 18.07.2021 at about 1.45 p.m., while the defacto complainant was engaged in agricultural activities on his land, along with his family members, the accused persons unlawfully entered into the said land. It is alleged that A5 and A6 arrived with a tractor, ploughed and damaged the groundnut crops worth about Rs.15,000/-. Subsequently, A2 and A3, along with others, attacked the defacto complainant's family members with wooden log and using filthy languages. As a result of which, the defacto complainant and his family members sustained injuries. Hence, the case.



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3. The learned counsel appearing for the petitioner would submit that no offence is made out as alleged by the prosecution. It is further contended that due to civil dispute between the petitioner and the second respondent, a false case has been foisted as against the petitioners.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials available on record.

5. It is seen that based on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.414 of 2021 for the offences under Sections 147, 148, 294(b), 323, 324, 354 and 506(2) of IPC and Section 4 of TNWPH Act, 2002 and Section 3 of TNPPDL Act, 1992. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.240 of 2022 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.



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6. A perusal of the final report and the statement recorded

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under Section 161 of Cr.P.C reveals that there are specific overt acts are attributed to the petitioners, which prima facie attract the ingredients of the offences under Sections 147, 148, 294(b), 323, 324, 354 and 506(2) of IPC and Section 4 of TNWPH Act, 2002 and Section 3 of TNPPDL Act, 1992.

7. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (CrI.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.



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8. Further, the Hon'ble Supreme Court of India in the

judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr,*** held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether



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the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

10. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this state. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report cannot be entertained to quash the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.240 of 2022 on the file of the District Munsif-cum-Judicial Magistrate, Edappadi. The personal appearance of the petitioners 1 to 6 alone is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment.



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12. Accordingly, the Criminal Original Petition stands

dismissed. Consequently, connected miscellaneous petitions are also closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

1.The District Munsif-cum-Judicial Magistrate,
Edappadi.

2.The Inspector of Police,
Edappadi Police Station,
Salem.

3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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