



Crl.O.P.No.3677 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2025

CORAM:

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

Crl.O.P.No.3677 of 2025
and Crl.M.P.Nos.2430 & 2431 of 2025

M.Ramya

... Petitioner

Vs.

1. State Rep. by
The Inspector of Police,
Deevatipatti Police Station,
Salem District.

2. Ambethkarmadhu

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records connected with the case in P.R.C.No.9 of 2024, on the file of the learned Judicial Magistrate, Omalur and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.C.Rajaguru

For Respondents

For R1 : Mr.K.M.D.Muhilan

Government Advocate (Crl.Side)



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ORDER

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This petition has been filed to quash the proceeding in P.R.C.No.9 of 2024, on the file of the learned Judicial Magistrate, Omalur, thereby taken cognizance for the offences under Sections 147, 148, 294(b), 332, 353, 505(2), 506(1) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992 in Crime No.669 of 2021, as against this petitioner.

2. The case of the prosecution is that the defacto complainant is a Village Administrative Officer in Kanavaipudhur village and the people residing in Ambedkar Colony demanded to install VCK political parties flag post in front of the Village Panchayat Office Kanavaaipudhur, however the same was opposed by the members of Pattali Makkal Katchi. In this background, on 23.09.2021 at about 10.00 a.m., when the defacto complainant was on duty, the petitioner along with other accused persons were attempted to install the VCK flag post. When the police personnel warned and stopped them, the accused persons pulled the police force and abused them with filthy languages. They also pelleted the stones and soda bottles and damaged the police vehicle. Hence, the complaint.



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WEB COPY 3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and she has not committed any offence as alleged by the prosecution. He further submitted that the petitioner was not in Salem and she was in Chennai on the date of alleged occurrence. Further, there is no overt-act as against the petitioner in the statement recorded under Section 161 of Cr.P.C. Without any base, the first respondent police registered a case in Crime No.669 of 2021 for the offences under Sections 147, 148, 294(b), 332, 353, 505(2), 506(1) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, as against the petitioner and the same has been taken cognizance in P.R.C.No.9 of 2024 on the file of the learned Judicial Magistrate, Omalur. Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.



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It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.669 of 2021, for the offences under Sections 147, 148, 294(b), 332, 353, 505(2), 506(1) of IPC and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in P.R.C.No.9 of 2024 by the trial Court and it is pending. To quash the said criminal proceedings, the petitioner filed the present petition.

7. On perusal of the statement and the charge sheet revealed that there are specific allegation as against all the accused persons, since a group of persons went there and indulged in illegal activities. 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., (Crl.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



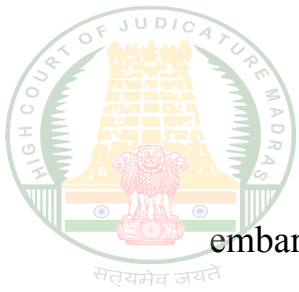
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and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. Fruther, 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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



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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 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 charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussions, this Court is not inclined to quash the proceedings. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances,



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the personal appearance of the petitioner is dispensed with and she shall

be represented by a counsel after filing appropriate application.

However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of the Bharatiya Nagarik Suraksha Sanhita, 2023, and at the time of passing judgment.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

12.02.2025

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

To

1. The Judicial Magistrate,
Omalur.

2. The Inspector of Police,
Deevatipatti Police Station,
Salem District.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

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