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Crl.O.P.No.4842 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

CORAM:

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

Crl.O.P.No.4842 of 2025

and

Crl.M.P.No.3140 of 2025

1. S.Darathi

2. S.Kaviarasan

... Petitioners

Vs.

1. The Inspector of Police, (L&O),
T-18, Thalambur Police Station,
Pallikaranai Police District,
Tambaram City Police.

2. Dr.T.Pasupathy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.41 of 2024 on the file of the learned District Munsif cum Judicial Magistrate Court, at Tiruporur, Chengalpattu and quash the proceedings.

For Petitioners : Mr. M.Silambarasan

For Respondents : Mr.K.M.D.Muhilan,
Government Advocate (Crl.Side) for R1



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.41 of 2024, on the file of the learned District Munsif-cum-Judicial Magistrate Court, at Tiruporur, Chengalpattu.

2. The second respondent originally lodged a complaint, and the same had not been taken up for action by the first respondent. As such, the second respondent filed a private complaint, and on a perusal of the materials produced by the second respondent, the Trial Court had taken cognizance in C.C. No. 41 of 2024 for the offences under Sections 307, 354A, 425, 427, 503, 506, 509, and 511 of IPC. The allegations, as per the complaint, are that the first accused claimed to be a retired police officer from the southern district of Tamil Nadu, and the second respondent's husband offered full support and assistance for the construction of his house. Accordingly, the first accused had completed the entire construction by February 2022. When the first accused attempted to lay an underground three-phase electrical cable to establish a connection to his newly constructed house, the second respondent's



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husband was asked to bear the entire expenses for the three-phase connection. If power was given to the first accused's house through an overhead three-phase EB connection, it would pass in close proximity to the second respondent's house, causing electrical hazards.

2.1. However, the second respondent's husband did not agree to the same. Further, the husband of the second respondent also objected to bringing the overhead cable within close proximity to the second respondent's house. Therefore, the first accused bore a grudge, and on 04.04.2022, at about 9.00 p.m., he abused the second respondent's husband by using filthy language and derogatorily referred to their caste name, with a malafide intention to harass and extract money. Therefore, the husband of the second respondent lodged a complaint, and an enquiry was conducted. During the enquiry, the first accused warned, and he undertook not to cause any disruptions to the second respondent's family and agreed to install the underground cable at his own expense.



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2.2. While that being so, due to the said enmity, all three accused persons continued to cause trouble to the second respondent. On 26.11.2023, when the first accused abused the husband of the second respondent and also assaulted him and all the family members. Therefore, the second respondent lodged a complaint before the first respondent and was issued C.S.R. No. 519 of 2023. However, there was no further action, and as such, the second respondent was constrained to file a private complaint. After recording the statement and on a perusal of the materials and evidence, the Trial Court had taken cognizance for the offences punishable under Sections 307, 354A, 425, 427, 503, 506, 509, and 511 of IPC as against the accused persons.

3. The learned counsel for the petitioners would submit that there are no specific allegations as against the petitioners, who are arrayed as A2 and A3, and the entire allegations are only against A1. He would further submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Hence he prayed to quash the same.



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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 for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials placed on record.

6. It is seen from the complaint that there are specific allegations against all the accused persons, in order to attract the offences. After recording the statement and on a perusal of the materials and evidence, the Trial Court had taken cognizance for the offences punishable under Sections 307, 354A, 425, 427, 503, 506, 509, and 511 of IPC as against the accused persons and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.

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., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing



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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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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 Sectionm528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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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 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 petitioners to quash the final



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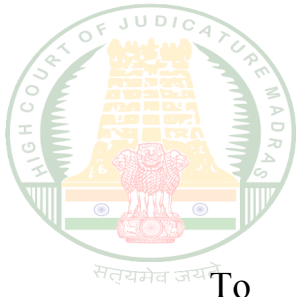
report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.41 of 2024 on the file of the learned District Munsif cum Judicial Magistrate Court, at Tiruporur, Chengalpattu. The petitioners are at liberty to raise all the grounds before the trial Court. The personal appearance of the petitioners are 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 313 Cr.P.C. and at the time of passing judgment.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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To
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1. The District Munsif cum Judicial Magistrate Court,
Tiruporur, Chengalpattu.
2. The Inspector of Police, (L&O),
T-18, Thalambur Police Station,
Pallikaranai Police District,
Tambaram City Police.
3. The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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