

Crl.OP.No.3973 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 12.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P. No.3973 of 2021
and Crl.M.P.No.2402 of 2021

1.D.Charles
2.C.Sumathi
3.S.Immanuvel

... Petitioners

Vs.

1.The State rep. By Inspector of Police
Law and Order,
C-3, Seven Wells Police Station,
Chennai -1.

2.Dhanalakshmi @ Jothi

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records and quash all further proceedings in C.C.No.2838 of 2019 pending on the file of learned VIII Metropolitan Magistrate, George Town, Chennai.

For Petitioner : Mr.S.Suresh

For Respondents : Mr.K.M.D.Muhilan for R1
Additional Public Prosecutor
No appearance for R2



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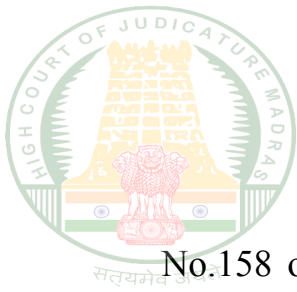


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ORDER

This Criminal Original Petition has been filed to call for the records and quash all further proceedings in C.C.No.2838 of 2019 for the offences punishable under Sections 294(b), 323, 354 r/w 34 IPC, pending on the file of learned VIII Metropolitan Magistrate, George Town, Chennai.

2. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He further submitted that the defacto complainant is not a legally wedded wife of the 1st petitioner herein. It is an admitted fact that she came to the Police Station for an enquiry where the 1st petitioner is working as a Police. By knowing the fact that the 1st petitioner is a married man, the defacto complainant laid a honey trap that there was an affair ensured between them. Later, she demanded money from the 1st petitioner by threatening him. When the 2nd petitioner and 3rd petitioner who is the wife and brother of the 1st petitioner advised him and prevented the 1st petitioner from giving money to the defacto complainant, she lodged a false complaint against the petitioners by her political influence. Without any base, the first respondent police registered a case in Crime



No.158 of 2019 for the offences under Sections 294(b), 323, 354 r/w 34 IPC, as against the petitioners and the same has been taken cognizance in C.C.No. 2838 of 2019 on the file of the learned VIII Metropolitan Magistrate, George Town, Chennai. Hence he prayed to quash the same.

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

4. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.158 of 2019 for the offences under Sections 294(b), 323, 354 r/w 34 IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No. 2838 of 2019 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.

5. 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 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.

6. 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.

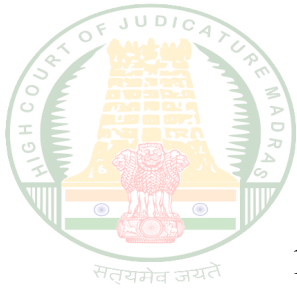
7. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr,*** held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry 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 consitutue 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.

8. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. 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.

9. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.2838 of 2019. However, considering the case is of the year 2019, the trial Court is directed to complete the trial proceedings within a period of three months from the date of receipt of copy of this Order. Considering the facts and circumstances of the case, the personal appearance of the petitioners 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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10. With the above directions, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

12.08.2025

msv

To,

1.The Inspector of Police
Law and Order,
C-3, Seven Wells Police Station,
Chennai -1.

2. The Public Prosecutor,
High Court of Madras.



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N. SATHISH KUMAR, J.

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