



CrI.O.P.No. 4098 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

CORAM:

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

CrI.O.P.No.4098 of 2025 and
CrI.M.P.No.2606 of 2025

Hariharasudan

... Petitioner

Vs.

1.The State Rep by Inspector of Police,
All Women Police Station Pollachi.

2.Santhiya

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records in charge sheet dated 11.05.2023, vide FIR No.21 of 2023, in C.C.No.705 of 2023, pending on the file of the Judicial Magistrate -1, Pollachi, quash the same as it devoid of merits.

For Petitioner : Mr.S.Sidhartha Vishnu

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

For R2 : Mr.M.N.Balakrishnan



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ORDER

This petition has been filed to quash the proceeding in C.C.No.705 of 2023 pending on the file of the Judicial Magistrate -1, Pollachi.

2. The case of the prosecution, as per FIR, is that the petitioner married the second respondent on 11.02.2022, At the time of the marriage, the parents of the second respondent presented 8 sovereigns of gold jewellery and household articles. Subsequently, the petitioner allegedly restricted the second respondent from visiting her parental home and took possession of all the jewellery given to her at the time of marriage. It is further alleged that the second the petitioner demanded additional dowry from the second respondent. Based on the complaint given by the second respondent, the first respondent registered a case in Crime No.38 of 2022. After completion of investigation, a final report was filed before the Judicial Magistrate -1, Pollachi and the same was taken cognizance in C.C.No.705 of 2023.

3. The learned counsel for the petitioner submitted that the



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allegations made in the complaint are false, vague, and motivated by personal animosity. It was contended that the case has been filed only with the intention to harass the petitioner and to exert undue pressure. He further submitted that the matrimonial dispute has been exaggerated into a criminal case, and that no offence under the alleged provisions is made out as against the petitioner. Hence, the continuation of proceedings would amount to abuse of process of law.

4. The learned Government Advocate (Criminal Side) submitted that there are specific and serious allegations as against the petitioner in the complaint, including demand of dowry and harassment. The investigation has been completed and the final report has already been filed, which clearly discloses the commission of cognizable offences. The trial Court has taken cognizance of the case in C.C. No.705 of 2023, and therefore, the petition seeking to quash the proceedings at this stage is liable to be dismissed.

5. Heard both sides and perused the materials placed on record.



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6. On perusal of the records, it is seen that the FIR was registered based on specific allegations made by the second respondent regarding dowry harassment and misappropriation of jewellery. The investigation has culminated in the filing of a final report, and the Trial Court has taken cognizance of the same. At this stage, this Court is not inclined to interfere under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, as the allegations are specific and require trial on merits

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. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya



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Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

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 (Criminal Appeal No.1572 of 2019, dated 17.10.2019)***, held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider 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 ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.***, held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of.



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Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to disprove the allegations is a matter to be determined during trial.

10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.705 of 2023 pending on the file of the Judicial Magistrate -1, Pollachi.. The petitioner is at liberty to raise all the grounds before the Trial Court.

12. Accordingly, the Criminal Original Petition stands dismissed.



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Consequently, connected miscellaneous petition is closed.

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Neutral citation : Yes/No
Speaking/non-speaking order
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To

1.The Judicial Magistrate -1, Pollachi.

2.The Inspector of Police,
All Women Police Station Pollachi.

3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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