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Crl.O.P.No.4362 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2025

CORAM:

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

Crl.O.P.No.4362 of 2025
and Crl.M.P.No.2769 of 2025

M.Aravind

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
D.Nagar Police Station
Puducherry
(In Cime No.21 of 2018)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the charge sheet in C.C.No.595 of 2020, pending on the file of the learned Judicial Magistrate No.1 and quash the same in so far as the petitioner is concerned.

For Petitioner : Ms.T.Lavanya

For Respondents : Mr. K.S.Mohan Dass
Public Prosecutor (Pondy) for R1



Crl.O.P.No.4362 of 2025

WEB COPY

ORDER

This petition has been filed to quash the proceedings in C.C.No.595 of 2025 on the file of the Judicial magistrate No.I, Puducherry, thereby taken cognizance for the offences under Sections 143, 115, 150, 120, 120(B), 148 r/w.149 of IPC and Section 27(1) of Arms Act, 1959 in Crime No.21 of 2018, as against this petitioner.

2. The case of the prosecution is that the petitioner/A8 along with one Ezhilarasi @ Meera, who is a history sheeter and had a case connecting to three murder, convened a meeting on 28.01.2018 at Le Royal Park Hotel, Kamaraj Salai, Puduchery under the guise of a Birthday Celebration, where A1 and other accused along with the petitioner conspired together and planned to execute murder of one Anand who acted as master mind for killing A1's husband Ramu, in order to take revenge of her husband Ramu's murder.

3.The learned Counsel appearing for the petitioner would submit that



Crl.O.P.No.4362 of 2025

the petitioner is innocent and he has not committed any offence as alleged by the prosecution. The petitioner is a student and doing part time work in Swiggy. On 28.01.2018, he went to Royal Park Hotel for taking a food order and at that time, the respondent police added the petitioner as accused in this case without proper enquiry. Without any base, the first respondent police registered a case in Crime No.21 of 2018 for the offences under Sections 143, 115, 150, 120, 120(B), 148 r/w.149 of IPC and Section 27(1) of Arms Act, 1959, as against the petitioner and the same has been taken cognizance in C.C.No.595 of 202 on the file of the Judicial Magistrate No.I, Puducherry. Hence he prayed to quash the same.

4.The learned Public Prosecutor, Pondicherry would submit that the trial has been commenced and there are specific allegations as against the petitioner to attract the offence and the petitioner is the master brain behind the entire crime. Hence he prayed for dismissing this petition.

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

6. It is seen that on a *suo moto* complaint lodged by the police, the



Crl.O.P.No.4362 of 2025

WEB CONTENT

respondent registered a case in C.C.No.595 of 2020 for the offence under Sections 143, 115, 150, 120, 120(B), 148 r/w.149 of IPC and Section 27(1) of Arms Act, 1959. After completion of investigation, the respondent filed final report and the same has been taken cognizance in C.C.No.595 of 2020 by the trial Court and it is pending. To quash the said criminal proceedings, the petitioner 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 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./180 of the Bharatiya Nagarik Suraksha Sanhita,



Crl.O.P.No.4362 of 2025

WEB COPY

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



Crl.O.P.No.4362 of 2025

WEB COPY

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 stage. 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/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.595 of 2020 on the file of the Judicial Magistrate No.1, Puducherry. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial



Crl.O.P.No.4362 of 2025

within a period of six months from the date of receipt of a copy of this Order.

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12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is also closed.

18.02.2025

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

To

1.The Inspector of Police,
D.Nagar Police Station
Puducherry

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



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G.K.ILANTHIRAIYAN. J,

msr

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