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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAYAN

**CRL.O.P.NO.4873 OF 2025 &
CrI.M.P.NOs.3160 & 3161 OF 2025**

Jeeva

.. Petitioner

VS

1. The State, represented by
The Inspector of Police,
Puduchatram Police Station,
Namakkal District.
(Crime No.197 of 2024)

2. Boopathi

.. Respondents

Prayer: Civil Revision Petition filed under section 227 of Constitution of India praying to call for the records relating to the C.C.No.9 of 2025 on the file of Judicial Magistrate Court No.II, Namakkal and quash the same.

For Petitioner : Mr. C. Prabakaran

For Respondents : Mr.K.M.D. Muhilan,
GA (crl.side) -R1

ORDER

The petitioner has filed this petition praying to call for the records relating to the C.C.No.9 of 2025 on the file of Judicial Magistrate



Court No.II, Namakkal and quash the same.

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2. The case of the prosecution is that a complaint has been lodged against the petitioner and two others on 09.07.2024 alleging that the defacto complainant and his paternal uncle Manickam, Logu and Singaravel went to power loom center of one Sakthivel/A1 and questioned about the uploading of photographs in a Whats App group about playing cards and for that A1 refused that he has not uploaded the video and subsequently, he admitted the said fact, followed by which, a wordy quarrel took place between both sides and in consequence thereof, A1 assaulted the defacto complainant with a wooden log and inflicted injuries on his right hand wrist. Hence a complaint in Cr.No.197 of 2024 under sections 296(b) and 115(2) of B.N.S. 2023 has been registered against the petitioner and two other persons.

3. Learned counsel for the petitioner would submit that it is a counter complaint and there is no specific overt act as against the petitioner. Initially, on the complaint lodged by the 1st accused party, the 1st respondent has registered an FIR in Cr.No.196 of 2024 against the 2nd

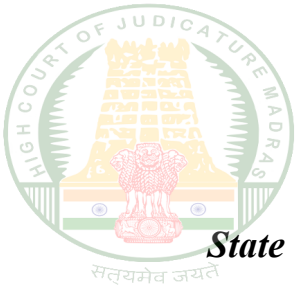


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respondent and 3 others for the offences under sections 296(b) and 115(2) of B.N.S.2023. Perusal of records reveals that the occurrence took place earlier to the present occurrence. Therefore he seeks to quashing of C.C.No.9 of 2025 pending on th file of Judicial Magistrate No.II, Namakkal.

4. Perusal of records would reveal that the 1st respondent registered an FIR in Cr.No.196 of 2024 for recording the statement of the petitioner. Further, the present case has been registered for the subsequent offence. That apart, there are specific over tact as against the petitioner and due to attack of the petitioner, the 2nd respondent sustained injuries and had taken treatment in the Government Hospital. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.9 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner 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.**



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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.



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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 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.

8. 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 final



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

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9. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.9 of 2025 on the file of the Judicial Magistrate Court No.II, Namakkal. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

10. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

21.02.2025

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

To

1. The Inspector of Police,
Puduchatram Police Station,
Namakkal District.
2. The Judicial Magistrate No.II,
Namakkal.
3. The Public Prosecutor,
High Court, Madras.



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G.K. ILANTHIRAIYAN, J.

msr

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