



Crl.O.P.No. 6464 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

CORAM:

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

Crl.O.P.No. 6464 of 2025

and

Crl.M.P.Nos.4121 & 4122 of 2025

1.Inthira

2.Ajithkumar

3.Sathish Kumar

.... Petitioners

Vs

1.State Rep.By,
Inspector of Police,
Anaicut Police Station,
Vellore.

2.Selvi

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records in Charge Sheet STC.No.2205 of 2024 on the file of Judicial Magistrate V, Vellore.

For Petitioners : Mr.R.Suryanarayanan
For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl.Side)

ORDER



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This Criminal Original Petition has been filed to quash the proceedings in STC No.2205 of 2024 on the file of the Judicial Magistrate No.V, Vellore, thereby taken cognizance for the offences under Sections 294(b) and 323 of IPC.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.87 of 2024 for the offences punishable under Sections 294(b) and 323 of IPC, alleging that on 17.05.2024, the second respondent noticed some liquor bottles on the compound wall of the petitioners' house and enquired the same, the accused allegedly scolded her using filthy language and also attacked her. Therefore, she sustained injury. Hence, the complaint.

4. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance in STC No.2205 of 2024 on the file of the Judicial Magistrate No.V, Vellore and it is pending for trial.



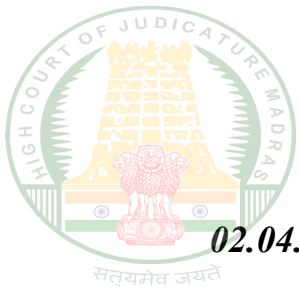
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5. The learned counsel for the petitioners would submit

that it is a counter blast complaint, since already in the year 2017, the second respondent and his son were involved in a criminal case registered for the offences under Sections 294(b), 323 and 506(i) of IPC in Crime No.223 of 2017. They were convicted in STC.No.463 of 2020 by a Judgment dated 07.03.2023 on the file of the Judicial Magistrate No.V, Vellore. There were no such occurrence took place and thus seeks quashing of the entire proceedings.

6. A perusal of the Judgment reveals that it was passed on 07.03.2023, whereas, the present occurrence allegedly took place on 17.05.2024. Further, the statement recorded under Section 161 of Cr.P.C, there are specific overt acts as against the petitioners to attract the offences under Sections 294(b) and 323 of IPC. On perusal of the Doctor evidence also revealed that the second respondent sustained injury and was treated by the Doctor.

7. In this record, 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**



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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.

8. 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 482 of Cr.P.C.



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9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***CrI.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 charge sheet cannot be entertained to quash the entire proceedings.



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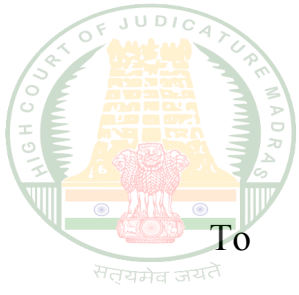
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11. In view of the above discussion, this Court is not inclined to quash the proceedings in STC No.2205 of 2024 on the file of the Judicial Magistrate No.V, Vellore. The petitioners are at liberty to raise all the grounds before the trial Court. The 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. 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.

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

07.03.2025

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

1. The Judicial Magistrate V, Vellore.

2. The Inspector of Police,
Anaicut Police Station,
Vellore.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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