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Crl O.P.No.5039 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

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

Crl.OP.No.5039 of 2025

and

Crl.M.P.No.3248 of 2025

1. Moorthy
2. Venkatachalam ... petitioners/ A1 & A2

VS.

1. The State of Tamil Nadu rep. by
The Inspector of Police,
Olakkur Police Station.
Crime No.758 of 2020 ...Respondents/De facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the CrPC, to call for the records in C.C.No.135 of 2022 pending on the file of the Judicial Magistrate No.1, Tindivanam and quash the same.

For petitioners	:	Mr.S N Subramani
For R1	:	Mr. A Gopinath
		Government Advocate (Crl.Side)



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ORDER

This petition has been filed to quash the proceedings in C.C.No.135 of 2022 pending on the file of the Judicial Magistrate No.1, Tindivanam, thereby taken cognizance for the offences under Sections 294(b), 323, 324 and 506(2) of IPC in Crime No.758 of 2020, as against the petitioners.

2. The case of the prosecution is that on 14.07.2020 at about 1:00 p.m., when the second respondent was laying water pipes in his land, the second petitioner along with the other accused persons abused him in filthy language and assaulted him with hands and caused injuries using sharp weapons. While being so, the petitioners along with the other accused also attacked the second respondent's brother's son, as a result of which both sustained injuries and were admitted at Government Hospital, Tindivanam.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any



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offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.758 of 2020 for the offences under Sections 294(b), 323, 324 and 506(2) of IPC, as against the petitioners and the same has been taken cognizance in C.C.No. 135 of 2022 on the file of the Judicial Magistrate No.1, Tindivanam. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that based on the complaint given by the second respondent FIR was registered, the investigation is completed and final report was filed by the first respondent.

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

6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.758 of 2020 for the offences under Sections 294(b), 323, 324 and 506(2) of IPC. After completion of investigation, the first respondent filed final report



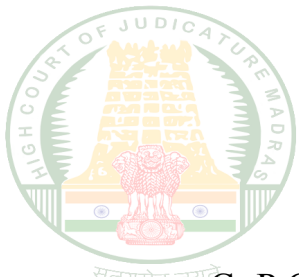
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and the same has been taken cognizance in C.C.No135 of 2022 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.

7. On perusal of the records, it is clear that from the specific overt act, materials are available to attract these offences as against the petitioners and this Court is not inclined to quash the proceeding.

8. 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



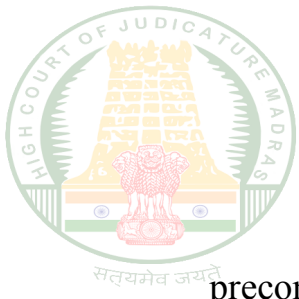
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Cr.P.C.

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9. 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.

10. 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



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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.

11. Further the ground raised by the petitioners to quash the proceedings in final report/charge sheet cannot be entertained to quash the entire proceedings.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.135 of 2022 on the file of the Judicial magistrate No.1, Tindivanam. The petitioners are 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.



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13. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is also closed.

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vca

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

To

1. The Inspector of Police,
Olakkur Police Station.
2. The Public Prosecutor,
High Court Madras.

G.K.ILANTHIRAIYAN,J.

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