



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2025

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THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

**CRL.O.P.No.5147 of 2025**  
**and**  
**CRL.M.P.Nos.3332 & 3326 of 2025**

Jayabalaji ..... Petitioner  
Vs

1.The State of Tamil Nadu,  
Rep. By its the Inspector of Police,  
Perambalur Police Station,  
Perambalur District.  
(Crime No.605 of 2023).

2.Abdul Rabik ..... Respondents

**Prayer:** Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the P.R.C.No.27 of 2024 on the file of the learned Judicial Magistrate No.1, Perambalur District insofar as the petitioner is concerned.

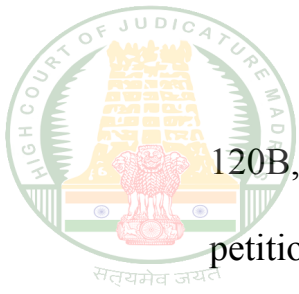
For Petitioner : Mr.G.Thalaimutharasu

For R1 : Mr.A.Gopinath,  
Government Advocate (Criminal Side)

**ORDER**

This petition has been filed to quash the proceedings in P.R.C.No.27 of 2024 on the file of the Judicial Magistrate No.1,

Perambalur, thereby taken cognizance for the offences under Sections



120B, 147, 149, 364, 386 of IPC in Crime No.605 of 2023, as against this petitioner.

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2. The case of the prosecution is that A1 viz., Alagiri is a life convict, A5 is the wife of A1, she is doing Real Estate Business, when she approached the defacto complainant for purchasing 50 cents of land situated behind the Dhanalakshmi Srinivasa College, Thruraiyur, Perambalur Road and the consideration was fixed as Rs.43,00,000/- and Rs.5,00,000/- was paid as an advance to the defacto complainant. Thereafter, A2 asked the defacto complainant to give the very same land by minimizing the sale consideration. But the defacto complainant did not accede to the same. Therefore, A4 was engaged to kidnap and threatened the defacto complainant as per the instructions of A2, A3 and A5 and demanded a sum of Rs.15,00,000/-. On the life threat, the defacto complainant gave a sum of 1,00,000/- to A3 and Rs.2,00,000/- each, to A2 and A4 on 11.04.2023. The accused used the said amount for the purpose of murdering one Abdul Rehman. After committing the same, A2, A3 and A4 demanded another Rs.2,00,000/- to the defacto complainant. On 08.06.2023, the defacto complainant again gave Rs.1,00,000/- to A3. Since the petitioner was confined in connection with the murder, the defacto complainant lodged a complaint on 08.08.2023

against A1 to A5 and after completing the investigation, the final report



was filed.

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3.The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. The learned counsel for the petitioner further submits that the defacto complainant and the petitioner are close friends and he has also filed photographs taken during the course of birthday celebration on 26.04.2023 and facebook post dated 21.04.2023 and the said photographs show that the petitioner did not involve in the crime that took place on 11.04.2023. Without any base, the first respondent police registered a case in Crime No 605 of 2023 for the offences under Sections 147, 149, 364, 386 and 120B of IPC, as against the petitioner and others and the same has been taken cognizance in PRC. No.27 of 2024 on the file of the learned Judicial Magistrate No.I, Perambalur District. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the 1<sup>st</sup> respondent police would submit that the petitioner along with other accused kidnapped and threatened the defacto complainant and demanded money. Hence, on the complaint lodged by the defacto complainant, the first respondent police registered a case in Crime No 605 of 2023 for the offences under Sections 147, 149, 364, 386 and 120B of IPC, as against



the petitioner and others. Now charge sheet has been filed in PRC. No.27 of 2024 on the file of the learned Judicial Magistrate No.I, Perambalur District and the same is pending for committal.

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 defacto complainant/second respondent, the first respondent registered a case in Crime No 605 of 2023 for the offences under Sections 147, 149, 364, 386 and 120B of IPC, as against the petitioner and others. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in PRC. No.27 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, 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 recorded 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. 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 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 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 PRC. No.27 of 2024 on the file of the Judicial Magistrate No.1, Perambalur. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial as early as possible.



dismissed. Consequently, connected miscellaneous petitions are also closed.

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25.02.2025

rkp

Index: Yes/No

Internet: Yes/No

To

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

**G.K.ILANTHIRAIYAN,J.**  
rkp



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Crl.O.P.No.5147 of 2025



**and**  
**CRL.M.P.Nos.3332 & 3326 of 2025**

25.02.2025

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**and**  
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**G.K.ILANTHIRAIYAN.J**

This matter is posted today before this Court under the caption 'For Being Mentioned' at the instance of the learned counsel appearing for the petitioner.

2. The learned counsel appearing for the petitioner submitted that there is some clarification in Paragraph No.11 of the order dated

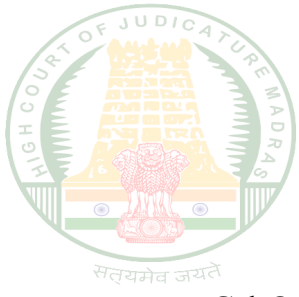


25.02.2025 in Crl.O.P.No.5147 of 2025. Hence, he prayed for suitable directions.

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3. Considering the submission made by the learned counsel for the petitioner, this petition is clarified and Paragraph No.11 of the order dated 25.02.2025 in Crl.O.P.No.5147 of 2025 shall reads as follows:-

*“ 11. In view of the above discussion, this Court is not inclined to quash the proceedings in PRC. No.27 of 2024 on the file of the Judicial Magistrate No.1, Perambalur. After completion of committal proceedings, now it has been taken cognizance by the Principal District Judge, Perambalur in SC.No.7 of 2025. Hence, the personal appearance of the petitioner in SC.No.7 of 2025 on the file of the Principal District Judge, Perambalur is dispensed with. The petitioner is at liberty to raise all the grounds before the Principal District Judge, Perambalur. The Principal District Judge, Perambalur is directed to complete the trial as early as possible.”*



4. Registry is directed to correct the order dated 25.02.2025 in

Crl.O.P.No.5147 of 2025, as above and issue order copy afresh.

13.03.2025

Index: Yes/No  
Internet: Yes/No  
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**Copy To**

The Principal District Judge, Perambalur.



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Crl.O.P.No.5147 of 2025



**G.K.ILANTHIRAIYAN,J.**  
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