



Crl.O.P.No.7087 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2025

CORAM:

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

Crl.O.P.No.7087 of 2025
and Crl.M.P.No.4518 of 2025

C.Raja

... Petitioner

Vs

1. The State Represented By Its
The Inspector of Police,
Karumalaikoodal Police Station,
Karumalaikoodal, Mettur Tk,
Salem District.

2. Easwaran
Sub Inspector of Police,
Karumalaikoodal Police Station,
Salem District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Crl.P.C/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records of charge sheet in C.C.No.464 of 2024 on the file of Judicial Magistrate No.II, Mettur, Salem District and quash the same.

For Petitioner : Mr.K.Prabhakaran
For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER



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This petition has been filed to quash the proceeding in C.C.No.464 of

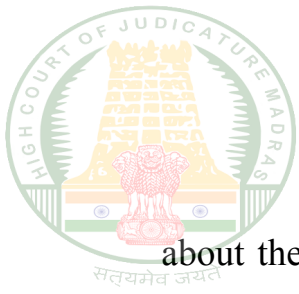
2024 on the file of Judicial Magistrate No.II, Mettur, Salem District.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.side) for the first respondent and perused the materials placed on record.

3. The case of the prosecution is that the second respondent is the Sub-Inspector of Police, Karumalaikoodal Police Station, Salem. It is alleged that due to previous enmity, the accused called the defacto complainant over the phone, abused the defacto complainant and threatened him with dire consequences. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.130 of 2024, for the offences punishable under Sections 294(b), 353 and 506(ii) of IPC. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.464 of 2024 on the file of Judicial Magistrate No.II, Mettur, Salem District.

5. The learned counsel for the petitioner would submit that the petitioner, being an Advocate, went to the Police Station and made enquiry



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about the FIR registered in Crime No.121 of 2024 for the offences punishable under Sections 147, 294(b) and 324 of IPC as against his client. Therefore, a false case has been foisted as against the petitioner only to wreck vengeance as against the petitioner. No such occurrence had been taken place. In fact, another complaint was lodged as against the second respondent. However, the petitioner was issued only CSR and no FIR has been registered as against the second respondent.

6. A perusal of records revealed that there is a specific allegation as against the petitioner to attract the offences under Sections 294(b), 353 and 506(ii) of IPC. The occurrence had taken place inside the Police Station. The petitioner threatened the second respondent to delete the name of the members 5 and 6 in the FIR registered in Crime No.120 of 2024 registered for the offences under Sections 147, 294(b), 323 and 324 of IPC. On the said request, the second respondent replied that there are specific allegations as against them and they are going to file a final report. Therefore, the petitioner scolded the second respondent, abused him with filthy language and threatened him with dire consequences. He also prevented the second respondent from discharging his duties. Therefore, the grounds raised by the petitioner can be considered only during the trial before the Trial Court.



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7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***CrI.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.,*** as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.



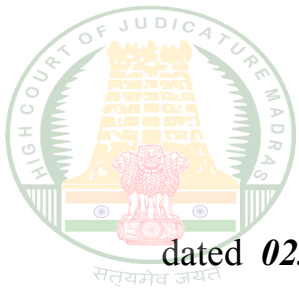
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8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in ***CrI.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Invstigation Vs. Arvind Khanna***, wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

9. Further the Hon'ble Supreme Court of India also held in the order



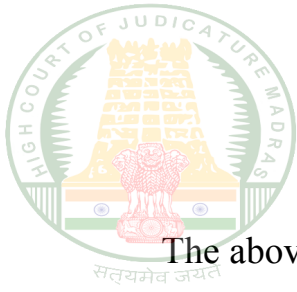
dated 02.12.2019 in Crl.A.No.1817 of 2019 in the case of **M.Jayanthi Vs.**

K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."



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The above judgments are squarely applicable to this case and as such, the points raised by the petitioner are mixed question of facts and it cannot be considered in quash petition under Section 482 Cr.P.C.

10. In view of the above, this Court is not inclined to quash the proceeding in C.C.No.464 of 2024 on the file of Judicial Magistrate No.II, Mettur, Salem District. The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner 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.

11. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petition is closed.

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Internet: Yes
Index: Yes/No



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Speaking/Non speaking order
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To

1. The Judicial Magistrate No.II, Mettur, Salem District.
2. The Inspector of Police,
Karumalaikoodal Police Station,
Karumalaikoodal, Mettur Tk,
Salem District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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