



Crl.O.P.No.6003 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2025

CORAM:

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

Crl.O.P.No.6003 of 2025
and Crl.M.P.No.3853 of 2025

1. Subramani
2. Selvaraj
3. Manju @ Manjula
4. Megala
5. Madhubalan

... Petitioners

Vs

1. The State of Tamilnadu
The Station House Officer,
V.Kalathur Police Station,
Perambalur District.
(Crime No.84/2023)

2. Pappa

... 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 the records of a case in C.C.No.247/2023 on the file of learned Additional Mahila Court, Perambalur and quash the same.

For Petitioners : Mr.G.Prabhu

For R1 : M/s J.R.Archana
Government Advocate (Crl.side)



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ORDER

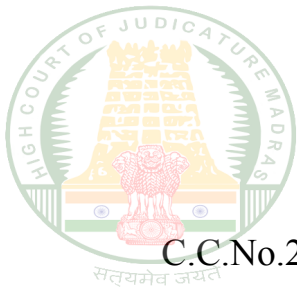
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This petition has been filed to quash the proceeding in C.C.No.247 of 2023 on the file of learned Additional Mahila Court, Perambalur.

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

3. The case of the prosecution is that on 28.04.2023, when the elder son of the defacto complainant was standing in the street, the first petitioner attacked him with wooden log and iron rod and also threatened him with dire consequences. On hearing the screaming of the son of the defacto complainant, the family members rushed to the scene of occurrence and thereafter, the accused and the defacto complainant quarreled and attacked with each other. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.84 of 2023 for the offences punishable under Sections 147, 148, 294(b), 323, 324, 354 and 506(2) of IPC. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in



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C.C.No.247 of 2023 on the file of Additional Mahila Court, Perambalur.

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5. The learned counsel for the petitioner would submit that the victims were not brought to the Doctor and they themselves went to the hospital for taking treatment. That apart, the victim sustained simple injury.

6. A perusal of records and also on perusal of statements recorded revealed that there are specific averments as against the petitioners to attract the offences under Sections 147, 148, 294(b), 323, 324, 354 and 506(2) of IPC. There are totally four persons injured and all the persons are taking treatment. LW.10 categorically stated in her statement that all the four persons got injured and they were treated as out patient. That apart, the grounds raised by the petitioners can be considered only during the trial before the Trial Court.

7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.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



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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.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation 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



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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 **CrI.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



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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....."

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.247 of 2023 on the file of Additional Mahila Court, Perambalur. The personal appearance of the third and fourth petitioners alone



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dispensed with and they shall be represented by a counsel after filing appropriate application. However, the third and fourth 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 in C.C.No.247 of 2023, within a period of six months from the date of receipt of a copy of this order.

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

03.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Additional Mahila Court, Perambalur.
2. The Station House Officer,
V.Kalathur Police Station,
Perambalur District.
3. The Public Prosecutor,
High Court, Madras.

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