



Crl.O.P.No.6433 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2025

CORAM:

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

Crl.O.P.No. 6433 of 2025
and
Crl.M.P.Nos.4109 & 4110 of 2025

M.Mugesh

..... Petitioner

Vs

1.The State Rep By,
The Inspector Of Police,
All Women Police Station,
Kanchipuram,
Kanchipuram District.
Cr.No.21/2024.

2.M.Nandhini

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2025, to call for the records relating to the police report in PRC No.7/2025 and the Ld. Judicial Magistrate No.2, Kanchipuram and quash the same.

For Petitioner : Mr.N.Manoharan

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



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ORDER

This Criminal Original Petition has been filed seeking to

quash the entire proceedings in PRC No.7 of 2025 pending on the file of the Judicial Magistrate No.II, Kanchipuram.

2. The case of the prosecution is that the second respondent is a practising Advocate and the accused is also practising Advocate in the same Bar. While being so, both fell in love. On the pretext of marriage, the petitioner had sexual intercourse with the second respondent. On several occasions, on compulsion, the petitioner had sexual intercourse with the second respondent. Subsequently, the petitioner refused to marry the second respondent. Hence, the case.

3. Based on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No.21 of 2024 for the offences under Sections 417 and 376(2)(n) of IPC. After completion of the investigation, the first respondent filed a final report, which is pending for committal in PRC No.7 of 2025 on the file of the Judicial Magistrate No.II, Kanchipuram.



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4. The learned counsel appearing for the petitioner

submitted that the petitioner is aged about 24 years and it is a consensual sex. The petitioner and the second respondent had love affair and had a physical relationship under the pretext of marriage. In fact the second respondent is eight years older than the petitioner. It is contended that there was no genuine relationship, but only consensual sexual encounters between two adults and therefore, no offence is made out against the petitioner.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.

6. A perusal of the statement recorded from the second respondent reveals that both were in love. Only on the pretext of the marriage, the second respondent engaged in consensual sex that too on compulsion of the petitioner. The petitioner had committed a very serious offence as against the second respondent. Therefore, there is absolutely no ground to quash the proceedings.



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7. The Hon'ble Supreme Court of India in the judgment

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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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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9. The Hon'ble Supreme Court of India in another

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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 whether the initiation of criminal proceeding itself is malicious or not. 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.



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11. In view of the above discussion, this Court is not

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inclined to quash the proceedings in PRC No.7 of 2025 on the file of the Judicial Magistrate No.II, Kanchipuram. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

05.03.2025

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

To

1. The Judicial Magistrate No.II,
Kanchipuram.

2.The Inspector of Police
All Women Police Station,
Kanchipuram,
Kanchipuram District.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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