



CRL OP No. 7714 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-03-2025

CORAM

THE HONOURABLE MR. JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 7714 of 2025
and Crl. M.P.No.4992 of 2025

Anand

S/o.Alexander, No.3/334A,
Pillayar Koil street, Gandhinagar,
Odai Bus Stop, Sozhinganallur,
Chennai.

Petitioner(s)

Vs

1. State represented by
Deputy Superintendent of Police
CBCID, OCU-II, Chennai.
FIR No.1/2016

2.Kuriakose
S/o. Poullose, No.12/172C,
Makka Moola, Gudalur, Nilgiris District.

Respondent(s)

PRAYER: Petition filed under Section 528 of BNSS, to call for the records pertaining to a case in C.C.No.9888/2018 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai and quash the same.



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For Petitioner(s): Mr. G. Krishna Moorthy

For Respondent(s): Ms.J.R.Archana, Government,
(for R1) Advocate (Crl. Side)

ORDER

This petition has been filed to quash C.C.No.9888/2018 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai.

2. It is alleged that on 04.05.2016 at about 2.00 p.m., one Priyadarshini, who is arrayed as 1st accused, along with other persons including her family members, went to a mentally retarded charity home at Makkamula, Nilgiris District, where her husband Manoj Rajan, a mentally ill person, was admitted and sought permission to visit him. After obtaining permission, they went to a personal room of the said Manoj Rajan and took him in the car and left the premises. Hence, a case was registered by the respondent in F.I.R.No.1 of 2016 for an offence under Section 363 of IPC. After investigation, a charge sheet has been



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filed for offences under Sections 363 @ 365, 344, 347, 120(b) & 420 IPC.

3. Learned counsel for the petitioner submitted that the accused is arrayed as A8. Even according to the prosecution, the specific averment attributed as against the accused/petitioner is that he posed as an advocate and accompanied with other persons to abduct the said Mano Ranjan. The petitioner being a law graduate has been falsely implicated as accused in this case.

4. On perusal of the records, it reveals that the petitioner along with the other accused persons committed the offence by posing as an advocate. Therefore, there was a specific allegation that the petitioner has been charged for the offence under Sections 363 @ 365, 344, 347, 120(b) & 420 IPC. A case in Crime No.1 of 2016 was registered against the petitioner, who has been arrayed as 5th accused.

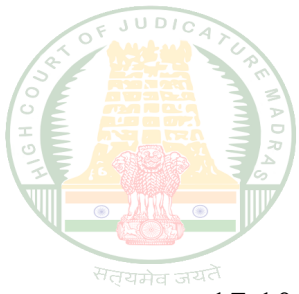


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5. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire 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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

6. 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

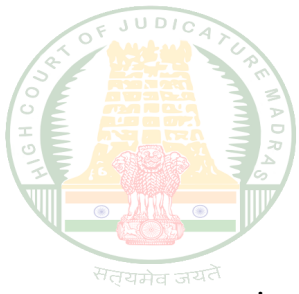


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17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

7. 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



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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.

8. 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.

9. In view of the above, this Court is not inclined to quash the proceedings in C.C.No.9888 of 2018 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances of the case, the personal appearance of the petitioner is dispensed with and



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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.

10. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is also closed.

17-03-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

The Deputy Superintendent of Police
CBCID, OCU-II, Chennai.



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