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Crl.O.P.No.7554 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2025

CORAM:

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

Crl.O.P.No.7554 of 2025
and Crl.M.P.Nos.4865 & 4866 of 2025

Sureshbabu @ Sunrise Suresh

.... Petitioner

vs.

1. State Represented by
The Inspector of Police,
D-2, Selvapuram Police Station,
Coimbatore City.

2. Manikandan@ Cable Manikandan

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records and quash the proceedings as far as the petitioner is concerned in S.C.No.104 of 2024 pending on the file of the learned Principal Subordinate Judge, Coimbatore.

For Petitioner : Mr.K.Balasubramaniam

For R1 : Mr.J.R.Archanan
Govt.Advocate (Crl.side)

ORDER

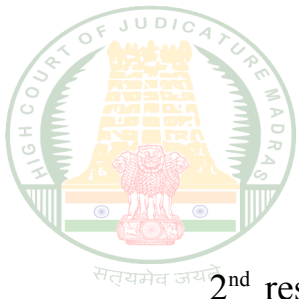


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This Criminal Original Petition has been filed to quash the proceedings in S.C.No.104 of 2024 on the file of the learned Principal Subordinate Judge, Coimbatore.

2. The case of the prosecution is that the the petitioner is arrayed as 9th accused and he is the District Member in DMK. The second respondent is running cable network in Selvapuram area and he is also the DMK Area Secretary of Ward No.78. During the year 2016, both the petitioner and the defacto complainant requested the DMK high command seeking Councillor seat, the 2nd respondent's sister got seat to contest in the said Ward, but no election took placed during the year, there was previous enmity between the 2nd respondent and A1 to A9. A1 to A14 are close friends and all of them are work for the petitioner in DMK party. A5 is the car driver of the petitioner. While so, on 17.10.2021, when the 2nd respondent and his friend while crossing Rammoorthy road, A1, A5 along with Ganesh @ Thirunangai Kavitha said to have abused the 2nd respondent by stating that he is doing politics with the petitioner, being aggrieved over the words of the A1 and A5, the



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2nd respondent attacked A1, A5 and another. Based on the complaint lodged by A5, FIR in Cr.No.596/2021 was registered against the 2nd respondent and one Sottai Kumar.

3. It is the further case of the petitioner that on 18.10.2021, while the 2nd respondent was sleeping outside his house, except A9, other accused i.e. A1 to A8, A10 to A15 joined together, went to the house of the 2nd respondent attacked the 2nd respondent and caused injuries to him. Based on the complaint lodged by the 2nd respondent initially FIR was registered by the 1st respondent in Crime No.597/2021 for offences under Sections 147, 148, 307 against A1 to A3 and other. Final report was filed in S.C.No.104 of 2024 for offences under Section 147, 148, 307, 109, 120B, 323, 324, 149 IPC. The charge against the petitioner is for offences under Sections 307 r/w109 of IPC and the same is pending on the file of the Principal Subordinate Judge, Coimbatore. Aggrieved by the same, the petitioner has come forward with the present criminal original petition.



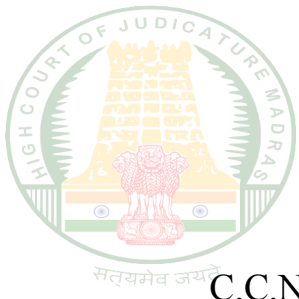
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4. The learned Counsel appearing for the petitioner would submit that as per FIR, no allegation as against the petitioner/A1. After recording the statement under Section 161(3) of Cr.P.C, there was no allegation as against the petitioner. Only after recording further statement from the witnesses, the petitioner's name has been implicated as the accused alleging that he constituted with the other accused persons who attacked the second respondent. Hence he prayed to quash the same.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. On perusal of the records would show that the petitioner is the main accused, it is seen that on the complaint lodged by the 2nd respondent, a case was registered in Crime No.20 of 2014 for the offences under Sections 147, 148, 465, 467, 468, 471, 420, 506(ii), 120(B) r/w 109 of I.P.C. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in



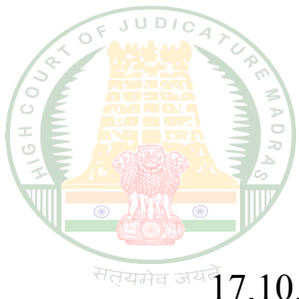
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C.C.No.501 of 2021 by the trial Court and it is pending. To quash the said criminal proceedings, the petitioner filed the present petition.

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 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 161(3) 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**



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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 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



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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 S.C.No.104 of 2024 on the file of the Principal Subordinate Judge, Coimbatore. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, 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. The trial Court is directed to



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complete the trial within a period of six months from the date of receipt of copy of this Order.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

14.03.2025

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

To

1. The Inspector of Police,
D-2, Selvapuram Police Station,

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2. The Principal Subordinate Judge,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

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