



Crl.O.P.No.6661 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.6661 of 2025
and Crl.M.P.No.4241 of 2025

Adhiban

... Petitioner

Vs.

1. The State
Rep. by Inspector of Police,
Pagandai Kootusalai Police Station,
Kallakurichi District.
(Crime No.130 of 2024)

2. M.Thangamani

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records culminating in P.R.C.No.05 of 2025 on the file of the learned Judicial Magistrate of Sankarapuram and to quash the same.

For Petitioner : Mr.B.Mohan

For Respondents

For R1 : Mr.J.R.Archana
Government Advocate (Crl. Side)



Crl.O.P.No.6661 of 2025

ORDER

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This petition has been filed to quash the proceedings in P.R.C.No.05 of 2025, pending on the file of the learned Judicial Magistrate, Sankarapuram, as against the petitioner, thereby taken cognizance for the offence punishable under Section 306 of IPC.

2. The petitioner is the sole accused for the charges punishable under Section 306 of IPC. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.130 of 2024 for the offences punishable under Section 306 of IPC. After completion of investigation, they filed final report and it is pending for committal in P.R.C.No.05 of 2025 on the file of the learned Judicial Magistrate, Sankarapuram.

3. The case of the prosecution is that the deceased had purchased second hand two wheelers and sought for financial assistances from the petitioner to the tune of Rs.65,000/-. The deceased also paid a sum of Rs.52,000/- which was borrowed from the private financier and he assured that he will return the amount of Rs.13,000/- to the petitioner for the purchase of second hand two wheelers. While being so, when the



Crl.O.P.No.6661 of 2025

deceased was standing near the Court premises at Kallakurichi on 26.06.2024, the petitioner herein scolded him using filthy language and also abused him for not paying the amount of Rs.13,000/-. Further the petitioner asked the deceased to sign on the blank papers and snatched the two wheelers key and also abated the deceased to commit suicide. Therefore, on 27.06.2024, the deceased consumed poison and died.

4. The learned counsel appearing for the petitioner submitted that there is no specific allegation to attract the offence under Section 306 of IPC. There was a financial transaction between the petitioner and deceased. When the petitioner demanded to return the balance amount of Rs.13,000/- from the deceased on 26.06.2024, the deceased committed suicide by consuming poison that too on 27.06.2024 at about 12 p.m. Therefore soon before his act, there was no abatement by the petitioner to induce him to commit suicide. He also pointed out that the forensic laboratory report says that he consumed illicit arrack and due to which he got poisoned and died. In support of his contention, he relied upon the judgment of this Court in ***Crl.O.P.No.8860 of 2017*** dated 03.01.2022 in the case of ***R.Mohanakrishnan Vs. The State***, in which, this Court held that in the absence of any such incitement to drive the person to commit



Crl.O.P.No.6661 of 2025

suicide or forcing the person to take such extreme step, merely the amount has been demanded by the lenders which resulted death of the person at the relevant point of time will not constitute offence under Section 306 of IPC.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. It is seen that, the petitioner not only demanded the deceased to repay the amount but also degraded him in the public place by demanding the amount. That apart, the petitioner also scolded and abused the deceased using filthy language and also asked the deceased to sign on blank papers. Therefore, the deceased consumed poison and committed suicide. Therefore, the above judgment is not applicable to the case on hand.

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



Crl.O.P.No.6661 of 2025

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. Fruther, 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.



Crl.O.P.No.6661 of 2025

WEB COPY

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 law would arise only at a later stage i.e., during trial.

10. Further this Court cannot observe at this stage 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.



Crl.O.P.No.6661 of 2025

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11. In view of the above discussions, this Court is not inclined to quash the proceedings in P.R.C.No.05 of 2025 on the file of the learned Judicial Magistrate, Sankarapuram. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to 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 petition is also closed.

10.03.2025

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

To

1. The Judicial Magistrate,
Sankarapuram.

2. The Inspector of Police,
Pagandai Kootusalai Police Station,
Kallakurichi District.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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Crl.O.P.No.6661 of 2025

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