



Crl.O.P.No.9239 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.9239 of 2025
and Crl.M.P.Nos.6131 and 6132 of 2025

1. Manisekar
2. Aiyyappan
3. Velmurugan
4. Manikandan
5. Thirunavukarasu

... Petitioners

Vs

1. The State Rep.By,
The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.
(Cr.No.318 of 2024)

2. Arulselvan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/ Section 482 of Cr.P.C, to call for the records and quash the charge sheet CC.No.431 of 2024 pending on the file of the Judicial Magistrate No.I, Jayankondam, Ariyalur District so far as the petitioners are concerned.

For Petitioners : Mr.G.Pugazhenth
For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)

ORDER



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This Criminal Original Petition has been filed to quash the proceeding in CC.No.431 of 2024 pending on the file of the Judicial Magistrate No.I, Jayankondam, Ariyalur District.

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. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.318 of 2024 for the offences punishable under Sections 191(2), 191(3), 296(b), 115(2), 118(1) and 351(3) of BNS, 2023 alleging that on 07.09.2024, at about 11.30 p.m, when the second respondent was in house, he questioned the accused regarding the Vinayagar procession. At that time, the petitioners came to his house and engaged in quarrel with him. They attempted to stab the second respondent with beer bottle and it was prevented by the second respondent and even then, he sustained injuries on his hand. It is further alleged that the accused assaulted the second respondent with wooden log, as result of which, he sustained contusion injuries all over his body.



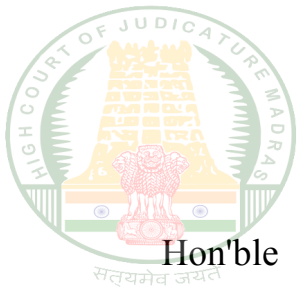
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4. The learned counsel for the petitioner would submit that the first petitioner, along with two others, contested the Village Panchayat election held in the year 2019. The first petitioner was elected as the President of the said Panchayat and as such, there was a dispute between the petitioners and the second respondent. It is further alleged that the present complaint has been falsely foisted against the petitioners due to the said political rivalry and without any basis in fact.

5. A perusal of records revealed that there are eye witnesses and the statements of them clearly attracted the offences. That apart, the Doctor who treated the second respondent also made statements.

6. Therefore, there are specific allegations to attract the offences under Sections 191(2), 191(3), 296(b), 115(2), 118(1) and 351(3) of BNS, 2023 as against the petitioners.

7. In this regard, it is relevant to rely upon the judgment of the



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Hon'ble Supreme Court of India passed in **CrI.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 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

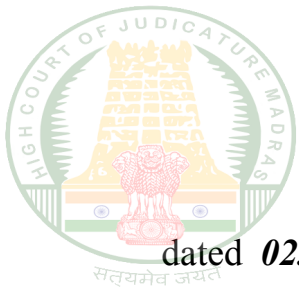
Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held

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 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



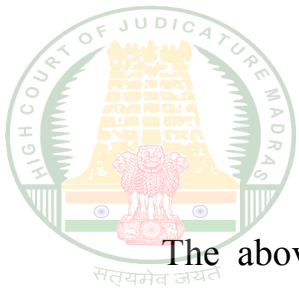
dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs.**

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 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....."



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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 CC.No.431 of 2024 pending on the file of the Judicial Magistrate No.I, Jayankondam, Ariyalur District. The personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the 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 CC.No.431 of 2024, within a period of six months from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous petitions are closed.

27.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn

G.K.ILANTHIRAIYAN. J.



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To

1. The Judicial Magistrate No.I,
Jayankondam, Ariyalur District.
2. The Inspector of Police,
Jayankondam Police Station,
Ariyalur District.
3. The Public Prosecutor,
High Court, Madras.

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