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Crl.O.P.Nos.7478 and 7480 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.03.2025

CORAM:

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

Crl.O.P.Nos.7478 and 7480 of 2024

and

Crl.M.P.Nos.5430 and 5431 of 2024

Crl.O.P.No.7478 of 2024:-

Dr.M.Thiyagarajan

... Petitioner

Vs

1. The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur, Tirupattur District.

2. Archana

... Respondents

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records and quash the Charge Sheet in C.C.No.27/2024 on the file of Judicial Magistrate No.1, Tirupattur.

For Petitioner : Mr.P.A.Sudesh Kumar

For Respondents : Mr.K.M.D.Muhilan

Government Advocate (Crl. Side) (for R1)

Mr.D.Jagadeesan (for R2)



Crl.O.P.Nos.7478 and 7480 of 2024

Crl.O.P.No.7480 of 2024:-

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Dr.M.Thiyagarajan

... Petitioner

Vs

1. The Superintendent of Police,
Tirupattur, Tirupattur District.

2. The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur, Tirupattur District.

... Respondents

Prayer:Criminal Original Petition filed under Section 482 of Cr.P.C., to call for records pertaining to the Final Report in C.C.No.26/2024 on the file of Judicial Magistrate No.1, Tirupattur, Tirupattur District and set aside the same and consequentially direct the respondent police to Re-investigate in Crime No.372/2023 on his file and to file Final Report.

For Petitioner : Mr.P.A.Sudesh Kumar

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)



Crl.O.P.Nos.7478 and 7480 of 2024

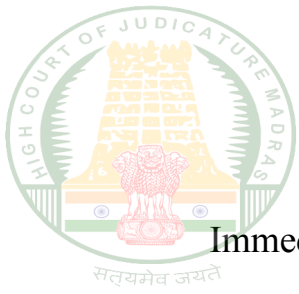
COMMON ORDER

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Crl.O.P.No.7478 of 2024 has been filed to quash the entire proceedings in C.C.No.27 of 2024 on the file of the learned Judicial Magistrate No.I, Tirupathur.

2. Crl.O.P.No.7480 of 2024 has been filed challenging the final report in C.C.No.26 of 2024 on the file of the learned Judicial Magistrate No.I, Tiruattur and also for re-investigation of the First Information Report in Crime No.372 of 2023 on the file of the second respondent Police.

3. The petitioner is a doctor and he is running a clinic under the name and style of 24x7 Poison & Emergency Care Hospital at No.8/16, Hanumantha Ubasagarpettai, Tirupattur District. While that being so, on 12.09.2023, at about midnight 12.00 o'clock, when the petitioner was in the clinic, the second respondent came to his clinic complaining of stomach pain. She went to his room and the petitioner asked her to lie down on the bed. He checked her stomach, removed her pant, and touched her private part. When the second respondent questioned him, he misbehaved with her.



Immediately, she came out of his room and informed her brother, who had also gone to the clinic with the second respondent. They went home, and all her relatives came to the clinic and questioned him. While questioning him about the same incident, he scolded her with filthy language and also attacked her. On the complaint, the first respondent registered a First Information Report in Crime No.371 of 2023 for the offences punishable under Sections 294(b), 323, 354, 354A, and 354B of IPC. After completing the investigation, a final report was filed and the same has been taken cognizance in C.C.No.27 of 2024.

4. On the very same incident, the petitioner also lodged a complaint and the same was registered as a First Information Report in Crime No.372 of 2023 for the offences punishable under Sections 147, 294(b), 323, 324, 427, and 506(1) of IPC as against five accused persons, who had accompanied the victim girl, alleging that they attacked him and also scolded all the staff of the clinic with filthy language. After completing the investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.26 of 2024 and it is pending on the file of the learned Judicial Magistrate No.I, Tirupattur.



WEB COPY 5. The learned counsel for the petitioner would submit that the petitioner and his wife are doctors, running 24x7 Poison & Emergency Care Hospital at No.8/16, Hanumantha Ubasagarpettai, Tirupattur District. Due to previous enmity and to exact vengeance, a false complaint has been foisted to tarnish the name of the petitioner and also to shut down the clinic. He also produced CCTV footages to show that the complainant went inside the room of the doctor and while coming out, showed no resemblance of the alleged misbehaviour of the petitioner. They came out of the clinic calmly, and thereafter, she brought all her relatives and henchmen to attack the petitioner. They brutally attacked the petitioner and the clinic.

5.1. He further submitted that the offence under Section 354 is not at all attracted, and even then, the first respondent mechanically filed a final report for the said offence, which has been taken cognizance of by the Trial Court. While conducting the investigation, the first respondent ought to have seen if there was any substance in the allegations to make out a case for the offence under Section 354 of IPC. The ingredients set out under the offence punishable under Section 354 of IPC are not at all made out in the



Crl.O.P.Nos.7478 and 7480 of 2024

case on hand. There is no force and there is no mental and physical discomfort caused to the second respondent by the petitioner. That apart, the petitioner had no *mens rea* for the act as alleged by the prosecution. In support of his contention, he relied upon the Hon'ble Supreme Court of India in the case of ***Naresh Aneja alias Naresh Kumar Aneja vs. State of Uttar Pradesh and another***, reported in ***2025 SCC OnLine SC 3***.

6. The learned Government Advocate (Crl. Side) appearing for the respondents Police submitted that there are specific allegations as against the petitioner and also materials to attract the offences under Sections 294(b), 323, 354, 354A, and 354B of IPC. Now, the trial Court has taken cognizance and it is pending for trial.

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

8. Further, both the petitioner as well as the second respondent are doctors. At the time of occurrence, the second respondent was doing her house surgeon. Therefore, the second respondent has knowledge about the



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treatment for her complaint. The second respondent went to the petitioner's clinic for her stomach pain, for which the doctor had no need to subject the second respondent to checking her private part. At the most, the petitioner could have checked her stomach by giving some pressure to feel the pain.

9. Therefore, this Court directed the second respondent to appear before this Court and she appeared before this Court at the Judge's Chamber on 27.02.2025 at 4.45 p.m. and deposed that she went inside the room of the petitioner and the petitioner attempted to misbehave with her by touching her private part, as she had complained of stomach pain. Immediately, she refused the ill-treatment and came out from his room. She complained about the same to her brother, who had also accompanied her to the petitioner's clinic. They went away and brought her relatives to question the petitioner. When the second respondent and her relatives questioned the petitioner, he scolded them with filthy language and also attacked them. There was a push and pull from both sides. Therefore, both sides sustained some injuries. On her complaint, the first respondent registered the First Information Report and also, on the complaint lodged by the petitioner, another First Information Report has been registered against the five persons who



accompanied the second respondent.

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10. This Court can also visualise that, on such a complaint, what would happen if the relatives entered into the clinic of the petitioner. Therefore, the respondent rightly registered two First Information Reports, completed the investigation and also filed final reports. Both the final reports have been taken cognizance and both are pending for trial.

11. On a perusal of the statement recorded from the second respondent and also the deposition made before this Court, it is clear that there is evidence to attract the offences under Sections 294(b), 323, 354, 354A and 354B of IPC against the petitioner. Therefore, the judgment cited by the petitioner is not helpful to the case on hand.

12. 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

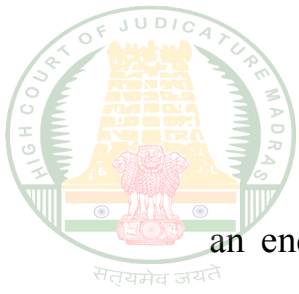


Crl.O.P.Nos.7478 and 7480 of 2024

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 of Cr.P.C.

13. 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 482 of Cr.P.C.

14. 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



Crl.O.P.Nos.7478 and 7480 of 2024

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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.

15. 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.



Crl.O.P.Nos.7478 and 7480 of 2024

16. In view of the above, this Court finds that there is absolutely no ground to quash both the proceedings. Accordingly, these Criminal Original Petitions are dismissed. However, the Trial Court is directed to conduct a simultaneous trial in C.C. Nos. 26 and 27 of 2024 and dispose of the same within a period of six months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petitions are closed.

03.03.2025

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

kv

To

1. The Superintendent of Police,
Tirupattur, Tirupattur District.
2. The Inspector of Police,
Tirupattur Town Police Station,
Tirupattur, Tirupattur District.
3. The Judicial Magistrate No.1,
Tirupattur.
4. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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Crl.O.P.Nos.7478 and 7480 of 2024

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