



CrI.O.P.No.8370 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8370 of 2025

and

CrI.M.P.Nos.5484 and 5485 of 2025

1. M.Balu
2. Kanagam
3. M.Manikandan
4. R.Mayavan
5. B.Prema
6. S.Marimuthu
7. M.Athikesavan

... Petitioners

Vs.

1. The State represented by
The Inspector of Police,
Tirukoilur Police Station,
Kallakurichi District.
Cr.No.1415 of 2020.

2. C.Amutha

... Respondents

PRAYER: This Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the case in C.C.No.84 of 2022 on the file of the learned Judicial Magistrate, Tirukoilur, quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.N.Manoharan



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For Respondents : Mr.A.Gopinath,
Government Advocate (CrI.Side)
for R1

ORDER

This petition has been filed to quash the proceedings in C.C.No.84 of 2022 on the file of the learned Judicial Magistrate, Tirukoilur,

2. The case of the prosecution is that on 07.08.2020, the second respondent came to the village and asked her brother-in-law/A1 to hand over a cooking vessel and she was scolded by A1. Once again on 10.08.2020 at 12.30 p.m., the second respondent requested A2 to hand over the said cooking vessel and she has also scolded her and also informed A1 and A3 over phone, whereupon, all the accused persons came in a group and abused the second respondent with filthy language besides assaulted her indiscriminately with stick, hands and stone. Thereby, the second respondent had sustained injuries and was admitted in the Government Hospital, Tirukoilur. Hence, the complaint.

3. Based on complaint lodged by the defacto complainant, the first respondent registered an FIR in Cr.No.1415 of 2020 against them for the alleged offence under Sections 147, 148, 294(b), 323, 324 of IPC and Section 4 of the Tamilnadu Prohibition of Harassment Women Act, 2002.



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After completion of investigation, the first respondent has filed a final report before the learned Judicial Magistrate, Tirukoilur and the same was taken cognizance in C.C.No.84 of 2022.

4. The learned Counsel appearing for the petitioner submits that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Already, a suit in O.S.No.244 of 2020, filed by the third respondent, is pending on the file of the Additional Sub Court-I, Villupuram for partition and separate possession. He further submits that the second respondent and her husband are living in Mumbai for more than two decades and they came to the village with a view to take forcible possession and they had failed in their attempt and hence, lodged a false complaint against them. Hence he prayed to quash the same.

5. The learned Government Advocate (CrI. Side) reiterated the prosecution case and on getting instructions submits that non bailable warrant is pending as against the petitioners.

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

7. A perusal of records reveals that there are specific allegations as



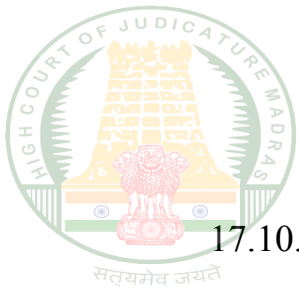
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against the petitioners to attract the offence under Sections 147, 148, 294(b), 323, 324 of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002. That apart, non bailable warrant is pending as against the petitioners. Hence, this petition is liable to be dismissed.

8. In this regard, it is relevant to rely upon the judgement of the Hon'ble Supreme Court of India 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 80 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. 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.

10. 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 consititue 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 consititue 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.

11. Further this Court cannot observe at this stage that the



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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.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.84 of 2022 on the file of the learned Judicial Magistrate, Tirukoilur. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the age of the petitioners 2 and 4 and the petitioners 5 and 6, the personal appearance of the petitioners 2, 4, 5 and 6 is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 2, 4, 5 and 6 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 within a period of six months from the date of receipt of copy of this Order.

13. Accordingly, the Criminal Original Petition stands dismissed.



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Consequently, the connected miscellaneous petitions are also closed.

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Vv

To

1. The Judicial Magistrate, Tirukoilur

2. The Inspector of Police,
Tirukoilur Police Station,
Kallakurichi District.

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



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G.K.ILANTHIRAIYAN, J.

Vv

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