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Crl.O.P.No.9510 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM

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

Crl.O.P.No.9510 of 2025

and

Crl.M.P.Nos.6282 and 6283 of 2025

1. Thilagavathy

2. Sneha

3. Dinesh

4. Pradesh

... Petitioners

Vs

1. The State of Tamil Nadu Rep by,  
Inspector of Police,  
Ambattur AWPS - W28,  
Chennai.

2. Bharathi

... Respondents

Criminal Original Petition is filed under Section 528 of B.N.S.S. r/w Section 482 of Cr.P.C., to call for the records pertains to the C.C. No:50 of 2024 pending on the file of the learned Judicial Magistrate II Court, Ambattur and quash the same.



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For Petitioners : Mr.L.Ram Kumar

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

### **ORDER**

This petition has been filed to quash the proceedings in C.C.No.50 of 2024 on the file of the learned Judicial Magistrate II Court, Ambattur, thereby taken cognizance for the offences under Sections 498-A, 406 and 34 of IPC and Section 4 of Dowry Prohibition Act in Crime No.14 of 2023, as against this petitioners.

2. The case of the prosecution is that the second respondent/de-facto complainant and the first accused are husband and wife. After marriage, the second accused, who is the mother of the first accused, and the third accused, who is the sister of the first accused, have caused mental agony to the de-facto complainant by demanding dowry. Further, the first accused, who is a drunkard, had caused abortion to the de-facto complainant by behaving like a maniac. The fourth accused has caused mental agony to the de-facto complainant. The fifth accused, who is the brother of the de-facto complainant, had tried to assault the de-facto complainant during her

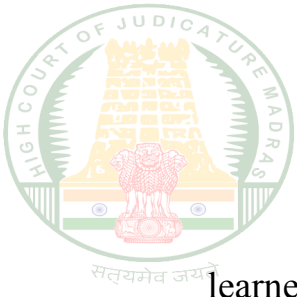


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second pregnancy. The first accused had demanded and obtained money and jewels from the de-facto complainant and failed to return it back when required. Further, the first accused has given sex torture to the de-facto complainant while she was pregnant. Even after giving birth to a boy child, the accused have caused severe mental agony to the de-facto complainant. Hence, based on the allegations, complaint was made and FIR was lodged for the alleged offences under Sections 498-A, 406 and 34 of IPC and Section 4 of the Dowry Prohibition Act.

3. The learned Counsel appearing for the petitioners would submit that there is no specific allegation against the petitioners, and in fact the first accused and the second respondent were living separately, not in the matrimonial home. He would further submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.14 of 2023 for the offences under Sections 498-A, 406 and 34 of IPC and Section 4 of the Dowry Prohibition Act, as against the petitioners and the same was taken cognizance in C.C.No.50 of 2024 on the file of the



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learned Judicial Magistrate II Court, Ambattur. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

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

6. On a perusal of the statements recorded from the witnesses, it is revealed that there are specific allegations against each and every petitioner to attract the offences under Sections 498-A, 406, and 34 of IPC and Section 4 of the Dowry Prohibition Act in Crime No.14 of 2023. After completion of investigation, the first respondent filed final report and the same was taken cognizance in C.C.No.50 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners have filed the present petition.

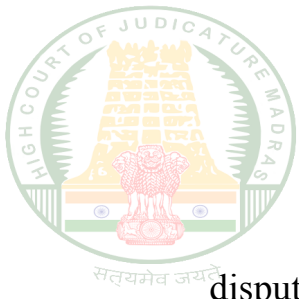


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7. The Hon'ble Supreme Court of India in the judgement reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire 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 of Cr.P.C./180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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 17.10.2019)*** held that the High Courts cannot record the findings on the



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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./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in ***CrI.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.



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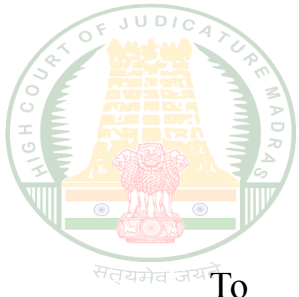
10. Further, this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioners to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.50 of 2024 on the file of the learned Judicial Magistrate II Court, Ambattur. The petitioners are at liberty to raise all the grounds before the trial Court.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petitions are closed.

01.04.2025

Index: Yes/No  
Neutral Citation: Yes/No  
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To  
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1. The State of Tamil Nadu Rep by,  
Inspector of Police,  
Ambattur AWPS - W28,  
Chennai.
2. The Judicial Magistrate II Court,  
Ambattur.
3. The Public Prosecutor,  
High Court, Madras.



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**G.K.ILANTHIRAIYAN, J.**

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