



Crl.O.P.No.12055 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.04.2025

CORAM:

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

Crl.O.P.No. 12055 of 2025 and
Crl.M.P.No.7984 of 2025

M.Ramalingam

.... Petitioner

Vs

1.State rep. by
The Inspector of Police,
Kalapet, Police Station,
Puducherry.
(In Crime No.47 of 2018).

2.Arumugam

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the charge sheet in C.C.No.1631 of 2019, pending on the file of the learned Judicial Magistrate No.V Puducherry and quash the same in so far as the petitioner is concerned.

For Petitioner : M/s.V.Gayathri

For R1 : Mr.K.S.Mohandass,
Public Prosecutor (Pondicherry)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1631 of 2019, pending on the file of the learned Judicial Magistrate No.V Puducherry.

2. The case of the prosecution is that the second respondent, residing in Pillaichavady and working at Puducherry Engineering College, owns a land in Maathur Village. It is alleged that his neighbor, Mannagatti, unlawfully cut and sold his tree to the petitioner. Despite a panchayat settlement to preserve the second respondent's trees, all were found removed on 23.07.2018. On the same day, while near PEC's backside gate, the petitioner allegedly slapped the second respondent and tore his shirt. The petitioner's sons then attacked the second respondent with wooden logs and an iron rod, thereby causing serious injuries. Based on this, a case was registered in Crime. No. 47 of 2018 for the offences punishable under Sections 341, 323, 324 of IPC r/w Section 34 of IPC. After completion of investigation, the first respondent filed the



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final report before the learned Judicial Magistrate No.V Puducherry and the same was taken cognizance in C.C.No.1631 of 2019.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in the case and is arrayed as Accused No.1. Even as per the prosecution's version, the only allegation against the petitioner is that he allegedly slapped the second respondent. It is contended that no *prima facie* case is made out as against the petitioner to attract the alleged offences, and hence, the proceedings are liable to be quashed.

4. The learned Government Advocate (Criminal Side), on the other hand, opposed the petition and submitted that there are specific and direct allegations as against the petitioner. It is stated that the petitioner not only removed the trees belonging to the second respondent but also physically assaulted him by slapping and causing injuries. The involvement of the petitioner is well supported by materials on record, and therefore, he prays for dismissal of this petition.



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5. Heard both sides and perused the materials placed before this Court.

6. On perusal of the records, this Court finds that the petitioner has been arrayed as Accused No.1. The materials on record disclose specific averments that the petitioner removed the trees belonging to the second respondent and also assaulted him, thereby causing injuries. These allegations, if taken at face value, *prima facie* attract the offences under Sections 341, 323, and 324 of IPC r/w Section 34 of IPC. The question as to whether the incident occurred as alleged, and the role of each accused, involves factual determination which requires appreciation of evidence during trial. Such matters cannot be adjudicated in a petition under Section 528 of BNSS. That apart, the presence of overt acts specifically attributed to the petitioner, including physical assault and unlawful removal of property, establishes a *prima facie* case, and the continuation of prosecution cannot be said to be an abuse of process of law.

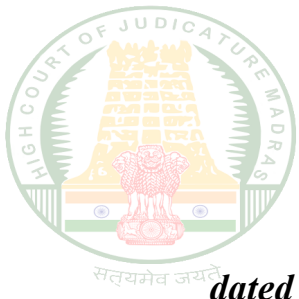


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7. The Hon'ble Supreme Court of India, in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh vs. State of Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

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 (Criminal Appeal No.1572 of 2019)***,



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dated 17.10.2019), held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider disputed facts under Section 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 ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.***, held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to disprove the allegations is a matter to be determined during trial.



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10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.1631 of 2019, pending on the file of the learned Judicial Magistrate No.V Puducherry. The petitioner is at liberty to raise all the grounds before the Trial Court. The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner 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.



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12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

23.04.2025

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

To

1.The Judicial Magistrate No.V Puducherry

2.The Inspector of Police,
Kalapet, Police Station,
Puducherry.

3. The Public Prosecutor, High Court, Madras.

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