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Crl.O.P.No.8574 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

CORAM:

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

Crl.O.P.No. 8574 of 2025

and

Crl.M.P.Nos.5581 & 5583 of 2025

1.Saritha @ Vijayalakshmi

2.Suguna

..... Petitioners

Vs

1.The State Rep.By
The Inspector of Police,
Padalam Police Station,
Chengalpattu District.
Cr.No.620/2023

2.Sathya

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for records relating to the Charge Sheet in C.C.No.397/2024 on the file of Learned Judicial Magistrate-II, Madurantakam, quash the same in so far relates the petitioners / accused alone.

For Petitioner : Mr.G.Mageshkumar

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

ORDER



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This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.397 of 2024 on the file of the Judicial Magistrate No.II, Madurantakam, thereby taken cognizance for the offences under Sections 294(b), 323, 324, 448, 427 and 506(ii) r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act.

2. The case of the prosecution is that on 31.10.2023, the petitioner, along with other accused persons, trespassed into the second respondent house, caused hurt to her husband. Hence, the present case.

3. The learned counsel appearing for the petitioner would submit that a counter complaint was lodged in respect of the very same occurrence and the same was registered in Crime No.621 of 2023. However, without filing the final report in Crime No.621 of 2023, the first respondent filed a final report only based on the complaint lodged by the second respondent and the same has been taken cognizance by the Trial Court.

4. On instructions, the learned Government Advocate (Crl.Side) appearing for the first respondent submitted that the



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investigation in Crime No.621 of 2023 has been completed and the final report has already been filed. The same is pending for cognizance before the competent Court.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (CrI.Side) appearing for the first respondent. Perused the materials available on record.

6. It is seen that based on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.620 of 2023 for the offences under Sections 294(b), 323, 324, 448, 427 and 506(ii) r/w Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act. In respect of the very same occurrence, the petitioner also lodged a complaint, which was registered in Crime No.621 of 2023 for the offences under Section 294(b), 324 and 506(ii) of IPC. However, the first respondent proceeded the investigation only in Crime No.620 of 2023 and filed a final report, which has been taken cognizance by the Trial Court, and is now pending. To quash the said criminal proceeding, the petitioner filed the present petition.

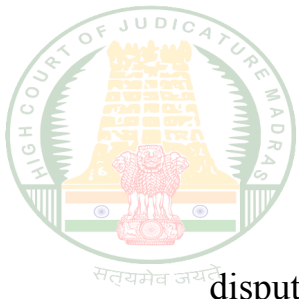


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7. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire 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 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 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 ***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 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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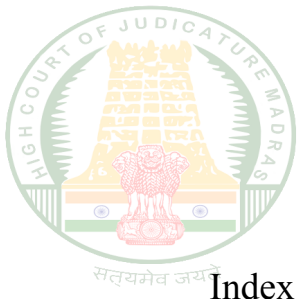
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10. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash 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.397 of 2024 on the file of the Judicial Magistrate No.II, Madurantakam. However, the petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to take cognizance of the final report filed by the first respondent in Crime No.621 of 2023 and proceed with a simultaneous trial in respect of both Crime Nos.620 and 621 of 2023, in accordance with law.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

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

1. The Judicial Magistrate No.II,
Madurantakam.

2.The Inspector of Police,
Padalam Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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