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Crl.O.P.No.9000 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

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

Crl.O.P.No.9000 of 2025

Arulraj

Vs

..... Petitioner

1.The State Rep. by
The Inspector of Police
T-12 Selaiyur Police Station
Chennai-600 059.

2.Manivannan

..... Respondents

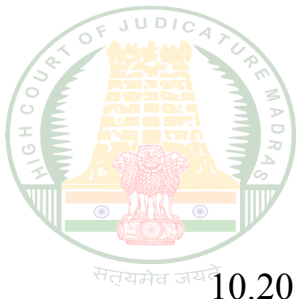
PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the impugned charge sheet in CC No.46/2025 on the file of the learned Judicial Magistrate II, Tambaram and quash the same.

For Petitioner	:	Mr. K.Selva Ganapathy
For R1	:	Mr.A.Gopinath
		Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.46 of 2025 pending on the file of the Judicial Magistrate No.II, Tambaram.

2. The case of the prosecution is that on 31.08.2024 at t



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10.20 p.m., while the second respondent and his colleague were travelling in a two wheeler, two unknown persons came on a pulser bike and stopped them. The accused persons impersonated police officers, assaulted the second respondent and his colleague and demanded a sum of Rs.4,000/-. Subsequently, the second respondent's colleague withdrew Rs.4,000/- from HDFC bank and handed it over to the accused. Thereafter, the accused fled from the scene. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the FIR was registered on 01.09.2024 at 14.00 hrs and the second respondent was not mentioned the registration of the pulsar bike bearing No.TN-11-BL-2018. However, on the same day, a witness statement was recorded under Section 180 of BNSS, 2023 by the first respondent, wherein, the second respondent stated that due to anxiety, he had omitted to mention the two wheeler's registration number in the complaint and also stated that he had seen the accused for the first time on 31.08.2024 and would be able to identify them if seen again. He further submitted that the petitioner has been arrayed as A2 and a false case case been foisted as against the petitioner due to previous enmity with the first respondent.



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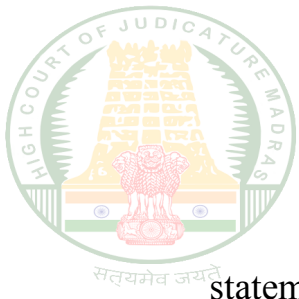
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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.

5. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.422 of 2024 for the offence under Section 309(6) of the Bharatiya Nyaya Sanhita, 2023. After completion of the investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.46 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

6. A perusal of the records reveals that there are specific allegations as against the petitioner to attract the offence under Section 309(6) of the Bharatiya Nyaya Sanhita, 2023.

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



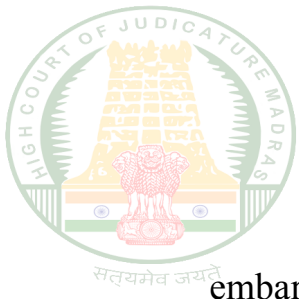
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statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 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 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 28 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



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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.

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.46 of 2025 on the file of the Judicial Magistrate No.II, Tambaram. Accordingly, the Criminal Original Petition stands dismissed.



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

1. The Judicial Magistrate No.II,
Tambaram.

2.The Inspector of Police
T-12 Selaiyur Police Station
Chennai-600 059

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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