



Crl.O.P.No.9434 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 04.02.2025

CORAM

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

Crl.O.P.No.9434 of 2022

and

Crl.M.P.Nos.5503 & 5504 of 2022

1.Ayyavu, (Male 76 years),  
No.171 TNHB Colony,  
Sithalapakkam, Kancheepuram District 600 126.

2.Kamala, aged 62 years W/o Ayyavur,  
No.171 TNHB Colony,  
Sithalapakkam, Kancheepuram District 600 126. .. Petitioners/Accused

/versus/

1.The Inspector of Police,  
W-6, All Women Police Station,  
Ayanavaram, Chennai 600 023.

..Respondent/Complainant

2.G.Vasanthi, W/o late Sivaraman,  
F-2, Poorni Apartments,  
No.15/2, Portuguese Road,  
Aynavaram Chennai 600 023.

.. Respondent/Defacto  
Complainant

Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in connection with the C.C.No.70 of 2021 on the file of the Additional Mahila Court, Egmore, Chennai and quash the same as against the petitioners/accused.



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For Petitioners : Mr.S.Senthilkumar  
For R1 : Mr.K.M.D.Muhilan  
Government Advocate (Crl.Side)  
For R2 : Mr.V.Illanchezhiyan

### **ORDER**

This petition has been filed to quash the entire proceedings in C.C.No.70 of 2021 on the file of Additional Mahila Court, Egmore, Chennai.

2. The petitioners are arrayed as A1 & A2, for the charges under Section 498 (A), 406, 354 (A) and 506(ii) of I.P.C.

3. The petitioners have simultaneously filed discharge petition before the Trial Court and the same is pending. The quash petition filed by the petitioners cannot be entertained. Furthermore, on perusal of charges, there was specific statements and material are very much available to attract offences under Sections 498 (A), 406, 354 (A) and 506(ii) of I.P.C.

4. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No. 70 of 2021 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.



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5. 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 under Section 482 of Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, 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.

6. 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



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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.

7. 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.

8. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is



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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 petitioners to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

9. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.70 of 2021 on the file of the Additional Mahila Court, Egmore, Chennai. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the age of the petitioners, the personal appearance of the petitioners are dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C. and at the time of passing judgment.

10. 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.

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Copy to:-

1.The Inspector of Police,  
W-6, All Women Police Station,  
Ayanavaram, Chennai 600 023.

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



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

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