



Crl.O.P.No.10066 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 07.04.2025

CORAM:

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

Crl.O.P.No.10066 of 2025
and Crl.M.P.Nos.6687 & 6691 of 2025

1. Sheereen
2. Vignesh

... Petitioners

Vs.

1. The State of Tamil Nadu
Rep. by the Inspector of Police,
Teynampet Police Station,
Chennai District.
(Crime No.407 of 2022)

2. Krishnamoorthy,
Sub-Inspector of Police,
Nungambakkam Traffic Police Station,
Chennai District.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records culminating in C.C.No.222 of 2024 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioners : Mr. T.Mohan, Senior Counsel
For Mr.Ali Hassan Khan

For Respondents

For R1 : Mr. R.Vinothraja
Government Advocate (Crl. Side)



Crl.O.P.No.10066 of 2025

WEB COPY

ORDER

This petition has been filed to quash the proceedings in C.C.No.222 of 2024 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, thereby taken cognizance for the offences punishable under Sections 341, 294(b), 323, 353, 506(1) IPC, in Crime No.407 of 2022, as against this petitioners.

2. The case of the prosecution is that when the second respondent/ defacto complainant viz., the Sub-Inspector of Police was on duty on 04.12.2022 around 1.15 am., the first petitioner, who was driving a Tata Nexon, was stopped for checking. When the petitioners were asked to blow in the breathing analyser device, it was found that both had consumed alcohol. Therefore, an e-challan was issued and when asked to hand over the vehicle, the petitioners abused the defacto complainant with filthy language and also escaped from the place along with the car. Hence, the complaint.



Crl.O.P.No.10066 of 2025

WEB.COM

3. The learned Senior Counsel appearing for the petitioners would submit that the petitioners are innocents and they have not committed any offence as alleged by the prosecution. No offence is made out even as per the case of the prosecution as alleged by the second respondent. Further there was a delay in lodgment of complaint and also for production of the same before the concerned Court. Without any base, the first respondent police registered a case in Crime No.407 of 2022 for the offences under Sections 341, 294(b), 323, 353, 506(1) IPC, as against the petitioners and the same was taken cognizance in C.C.No.222 of 2024 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai. 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.



Crl.O.P.No.10066 of 2025

WEB COPY

6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.407 of 2022 for the offences punishable under Sections 341, 294(b), 323, 353, 506(1) IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.222 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner has filed the present petition.

7. Further while the petitioners were drunk and driving, the vehicle was stopped for which, the petitioners attacked the police officials. There are specific allegations as against the petitioners to attract the offences punishable under Sections 341, 294(b), 323, 353, 506(1) IPC. That apart, the grounds raised by the learned Senior Counsel can be considered only before the trial Court.

8. 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



Crl.O.P.No.10066 of 2025

WEB COPY

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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



Crl.O.P.No.10066 of 2025

WEB COPY 10. 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 consititue 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 consititue 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.

11. 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



Crl.O.P.No.10066 of 2025

ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.222 of 2024 on the file of the learned XVIII Metropolitan Magistrate, Saidapet, Chennai. The petitioners are at liberty to raise all the grounds before the trial Court. 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.

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

07.04.2025

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



WEB COPY



Crl.O.P.No.10066 of 2025

G.K.ILANTHIRAIYAN. J,

rts

To

1. The XVIII Metropolitan Magistrate,
Saidapet, Chennai,

2. The Inspector of Police,
Teynampet Police Station,
Chennai District.

3. The Sub-Inspector of Police,
Nungambakkam Traffic Police Station,
Chennai District.

4. The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.10066 of 2025 and
Crl.M.P.Nos.6687 & 6691 of 2025

07.04.2025