



Crl. O.P. No. 11821 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 22.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No.11821 of 2025

and

Crl. M.P. No. 7863 of 2025

1. Tamilselvan

2. Shanthi

... Petitioners

Vs

1. The State, Rep., by
The Inspector of Police,
Otteri Police Station,
Tambaram.

2. Kunasekaran

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to C.C.No. 265 of 2024 on the file of the Judicial Magistrate II, Chengalpet and quash the same.

For Petitioners : Mr. M. Jaisingh

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



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C. No. 265 of 2024 on the file of the Judicial Magistrate-II, Chengalpet.

2. The case of the prosecution is that, there was a parking dispute between the petitioners and the second respondent. The same was questioned by the second respondent, due to which, the petitioners had attacked the second respondent with hand pipe. Therefore, the second respondent sustained fracture on his middle finger of his left hand. Immediately, he had been taken to hospital. After completion of investigation, the first respondent filed a final report for the offences punishable under Sections 294(b) and 324 of IPC and the same has been taken cognizance by the trial Court in C.C.No.265 of 2024.

3. That apart, there was a counter complaint filed by the petitioners and the same has been registered in Crime No.83 of 2023. It was also charge sheeted and the same has been taken cognizance in C.C.No.462 of 2023 on the file of the Judicial Magistrate-II, Chengalpet.



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4. Further, on perusal of the records, it is revealed that there was specific overt act as against the petitioners in order to attract the offences as per the charge sheet.

5. In view of the above, this Court finds no grounds to quash the proceedings.

6. 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 Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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7. 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.

8. 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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9. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is 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 petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.265 of 2024 on the file of the Judicial Magistrate-II, Chengalpet. The petitioners is at liberty to raise all the grounds before the trial Court. The personal appearance of the petitioners is 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 351 of BNSS and at the time of passing judgment. The trial Court is directed to conduct the simultaneous trial in C.C.No.464 of 2023 and C.C.No.265 of 2024 and complete the same, within a period of six months from the date of receipt of copy of this order.

11. Accordingly, the Criminal Original Petition stands dismissed.



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Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

Neutral Citation : Yes/No

AT

To

1. The Judicial Magistrate-II, Chengalpet.

2. The Inspector of Police,
Otteri Police Station,
Tambaram.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

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