



Crl.O.P.No. 9669 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2025

CORAM:

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

Crl.O.P.No. 9669 of 2025
and Crl.MP.Nos.6395 & 6397 of 2025

Rajesh

... Petitioner

Vs.

1.The State rep by
The Sub-Inspector of Police,
Villupuram Town Police Station,
Villupuram – 605 602.

2.S.Chithra

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records connected with the case in C.C.No.114 of 2024 pending on the file of the learned Judicial Magistrate No.I, Villupuram and quash the same.

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



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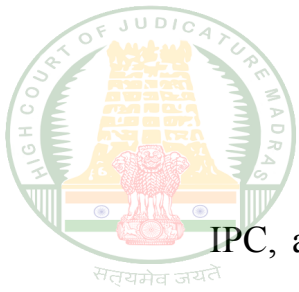
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ORDER

This petition has been filed to quash the proceedings in C.C.No.114 of 2024 on the file of the learned Judicial Magistrate No.I, Villupuram.

2. The case of the prosecution is that due to previous enmity between the defacto complainant's family and the petitioner's family regarding the land dispute, on the date of the alleged occurrence, there was a wordy quarrel, during which the petitioner abused the defacto complainant in filthy language and also beat him with iron rod causing injuries to him and later he was admitted in the hospital. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that due to previous enmity, a false case has been foisted against the petitioners and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.591 of 2020 for the offences under Sections 294(b), 323 of



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IPC, as against the petitioner and the same has been taken cognizance in C.C.No.114 of 2024 on the file of the Judicial Magistrate No.I, Villupuram.

Hence he prayed to quash the same.

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.591 of 2020 for the offences under Sections 294(b) and 323 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.114 of 2024 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 which attract the offences under



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Sections 294(b) and 323 of IPC.

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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 Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

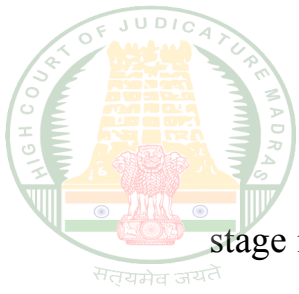
8. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019 dated***



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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.

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



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stage i.e., during trial.

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10. Further this Court cannot observe at this stage that 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.114 of 2024 on the file of the Judicial Magistrate No.I, Villupuram. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner 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. However, the trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of



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this Order.

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

02.04.2025

drl

To

1.The Sub-Inspector of Police,
Villupuram Town Police Station,
Villupuram – 605 602.

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

3.The Judicial Magistrate No.I,
Villupuram.



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G.K.ILANTHIRAIYAN. J,

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