



Crl.O.P.No. 9721 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. 9721 of 2025
and Crl.MP.Nos.6443 & 6446 of 2025

Aswin

... Petitioner

Vs.

1.The State rep by
The Inspector of Police,
Alivalam Police Station,
Tiruvarur District.
Crime No.46 of 2022.

2.Sarabose

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the C.C.No.165 of 2024 on the file of Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur District and to quash the same in respect of the petitioner concern.

For Petitioner	:	Mr. C.Prabakaran for Mr.V.Kasinatha Bharathi
For R1	:	Mr. A.Gopinath Government Advocate (Crl. Side)



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.165 of 2024 on the file of the learned Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur District.

2. The case of the prosecution is that the second respondent went to his native place for the marriage of his Sister. Due to previous enmity, on 05.06.2022, the petitioner along with other accused persons were also came to the marriage. Due to the marriage of his sister and on the advice of the relatives, they did not do anything. Subsequently on 12.06.2022, the accused persons assaulted the second respondent with an iron rod at his mouth and also assaulted the defacto complainant's brother and father with aruval causing injuries to their heads and necks and later they were admitted to 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



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prosecution. He further submitted that even as per the prosecution, the petitioner attacked the victim with iron rod, however the A-Register does not whisper about the iron rod used by the petitioner. That apart there was no medical evidence, since the Doctor gave treatment to the injuries and the victim went away from the medical advice.

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.46 of 2022 for the offences under Sections 147, 148, 294(b), 324 and 506(ii) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.165 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.



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6. A perusal of the records reveals that the victim, after being

discharged from the Thiruvarur Medical College Hospital, was later referred to a higher hospital for better treatment. Therefore, they issued a wound certificate to the extent of causing injuries. That apart the petitioner is arrayed as A2 and that the petitioner had attacked the victim with iron rod. He further submitted that there are specific allegations as against the petitioner which attract the offences under Sections 147, 148, 294(b), 324 and 506(ii) of IPC.

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



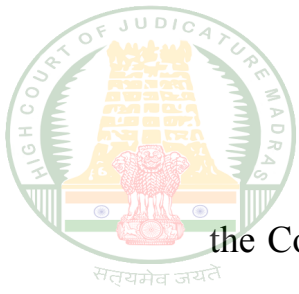
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arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. Fruther, 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.

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



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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 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.165 of 2024 on the file of the Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur District. The



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petitioner is at liberty to raise all the grounds before the trial Court.

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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 this Order.

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

02.04.2025

drl



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- 1.The Inspector of Police,
Alivalam Police Station,
Tiruvarur District.
- 2.The Public Prosecutor,
Madras High Court,
Chennai.
- 3.The Judicial Magistrate Court,
Thiruthuraipoondi, Tiruvarur District.



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G.K.ILANTHIRAIYAN. J,

drl

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