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Crl.O.P.No.10121 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.10121 of 2025

and

Crl.M.P.Nos.6757 and 6759 of 2025

1. Mohanasundaram

2. Ramesh

... Petitioners

Vs

1. State Rep by
Inspector of Police,
Avinashipalayam Police Station,
Tiruppur.
(Cr.No.1/2023)

2. Santhamani

... Respondents

Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and quash the charge sheet on the file of the Judicial Magistrate Court, Palladam in Calender Case No.309/2023 as against this petitioners.



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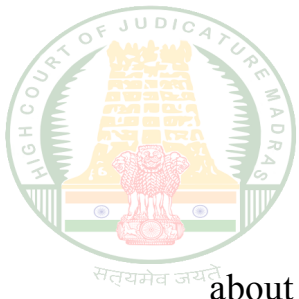
For Petitioners : Mr.N.U.Pressanna

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

ORDER

This petition has been filed to quash the proceedings in C.C.No.309 of 2023 on the file of the Judicial Magistrate Court, Palladam, thereby taken cognizance for the offences under Sections 294(b), 323, 324 and 506(2) of IPC and Section 4 of TN Prohibition of Harassment of Women Act in Crime No.151 of 2022 as against the petitioners.

2. The case of the prosecution is that the defacto complainant and her husband are agriculturalist doing agriculture in their 2 acres of land situated in Elandahakadu Thottam, Tiruppur District. The first petitioner/first accused is an adjacent land owner having 2 acres of land and doing agriculture in his land and they both share common pathway. While so, on 23.04.2022 at around 11.30 hours, the first petitioner unloaded sand in the pathway thereby restricting the free movements of the defacto complainant in her land. Hence, when the defacto complainant questioned



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about the same, the first petitioner started a quarrel and also assaulted her on her back and pushed her down, while, the second petitioner/second accused picked a wooden stick and attacked on her left leg by uttering filthy language and further threatened her. On hearing unusual sound, the villagers came to the scene of occurrence and tried to make a compromise between them. However, on seeing the villagers, the second petitioner threw away the wooden stick and ran away from the scene of occurrence. Thereafter, the defacto complainant was taken to hospital for treatment. Hence, the defacto complainant lodged a complaint and the first respondent police registered the FIR in Crime No.151 of 2022 for the aforesaid offences.

3. The learned Counsel appearing for the petitioners would submit that for the very same occurrence, originally the first petitioner only lodged a complaint against the de-facto complainant's husband and son, and the same has been registered in Crime No.148 of 2022 for the offences punishable under Sections 294(b), 323, 324, 355, and 506(2) of IPC. On the very same occurrence, the second respondent lodged a counter complaint, and the same has been registered, and now the petitioners have been



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prosecuted in C.C.No.309 of 2023. He would further submit that the first respondent, without even following the Police Standing Order 566, found that both parties were aggressors. For the said occurrence, there must be only one aggressor, and as such, the entire proceedings initiated against the petitioners cannot be sustained and are liable to be quashed.

3.1. He would further submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.151 of 2022 for the offences under Sections 294(b), 323, 324 and 506(2) of IPC and Section 4 of TN Prohibition of Harassment of Women Act as against the petitioners and the same has been taken cognizance in C.C.No.309 of 2023 on the file of the Judicial Magistrate Court, Palladam. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that in both the First Information Reports, the first respondent completed the investigation and filed final reports. On the



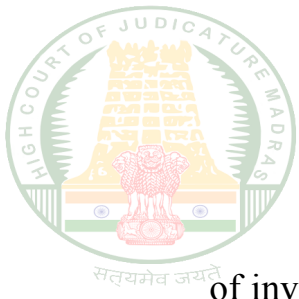
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complaint lodged by the second respondent, now the final report has been filed, and the same has been taken cognizance of in C.C.No.309 of 2023 on the file of the Judicial Magistrate Court, Palladam. Insofar as the complaint lodged by the petitioner, after completion of investigation in Crime No.148 of 2022, a final report was filed, and the same has been taken cognizance of before the concerned Trial Court, and it is pending trial. Therefore, there is absolutely no impediment to filing final reports in both the First Information Reports, since the first respondent found that both parties were aggressors and both parties sustained injuries. Therefore, he prays to dismiss the present Criminal Original Petition.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.151 of 2022 for the offences under Sections 294(b), 323, 324 and 506(2) of IPC and Section 4 of TN Prohibition of Harassment of Women Act. After completion



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of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.309 of 2023 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present petition.

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.



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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 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



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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 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 petitioners 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.309 of 2023 on the file of the Judicial Magistrate Court, Palladam. The petitioners are at liberty to raise all the grounds before the trial Court. 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



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under Section 313 Cr.P.C. and at the time of passing judgment. The trial Court is directed to conduct simultaneous trial in C.C.No.309 of 2023 and C.C.No.209 of 2024 and complete the same within a period of six months from the date of receipt of a copy of this order.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

03.04.2025

Index: Yes/No

Neutral Citation/Yes/No

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To

1. The Inspector of Police,
Avinashipalayam Police Station,
Tiruppur.
2. The Judicial Magistrate Court,
Palladam.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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