



Crl.O.P.No.10980 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2025

CORAM:

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

Crl.O.P.No.10980 of 2025

and

Crl.M.P.No.7270 of 2025

Dhinakaran @ Dheena

... Petitioner

Vs.

1. The State Represented by
Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai District.
(Crime No.156 of 2024)

2. Iyyappan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C./Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records relating to the SC.No.37 of 2025 on the file of Principal Sessions Judge Court, Chennai and to quash the same.

For Petitioner : Mr.M.Nagoor Moideen

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



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ORDER

WEB COPY This petition has been filed to quash the proceedings in S.C.No.37 of 2025 on the file of the Principal Sessions Judge Court, Chennai, thereby taken cognizance for the offences under Sections 449 and 120(B) read with Sections 302 and 342 read with Section 34 of IPC in Crime No.156 of 2024, as against this petitioner.

2. The case of the prosecution is that since the defacto complainant separated from his wife and kids, he lives with his deceased mother-in-law. The defacto complainant left his home on 09.05.2024 to go to work. There are five houses in the compound; the first two have been occupied by one Elumalai, the deceased person's neighbour, who has three daughters and one teenage boy. The first two daughters were married and are living separately with their families. Only his son/first accused, viz., Arulmani, and his third daughter, viz., Ganga Devi, were there at the scene of occurrence. When the defacto complainant returned to his home, the door was broke and his mother-in-law was lying dead in the kitchen. The defacto complainant suspected the accused as the mother-in-law of the defacto complainant complained to the said Elumalai that his son/first accused is in a love affair and the second and third accused, viz., Vignesh and Dhinakaran, are visiting his house in his



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absence to see his daughter. Therefore, the defacto complainant lodged a complaint on 09.05.2024 and the first respondent police registered a case in Crime No.156 of 2024 as against the petitioner and the first and second accused.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent 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.156 of 2024 for the offences under Sections 449 and 120(B) read with Sections 302 and 342 read with Section 34 of IPC, as against the petitioner and the same has been taken cognizance in S.C.No.37 of 2025 on the file of the Principal Sessions Judge Court, 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 for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and



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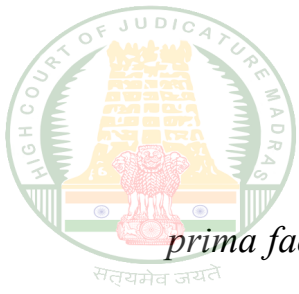
perused the materials placed on record.

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6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.156 of 2024 for the offences under Sections 449 and 120(B) read with Sections 302 and 342 read with Section 34 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in S.C.No.37 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner has filed the present petition.

7. On perusal of the statement recorded under Section 161 of Cr.P.C., it reveals that there are specific allegations against the petitioner to attract all the charges against him.

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 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



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WEB COPY *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 161 of Cr.P.C.

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 482 of Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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



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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.

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 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 S.C.No.37 of 2025 on the file of the Principal Sessions Judge Court, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court.



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WEB COPY13. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is also closed.

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

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To

1. The Inspector of Police,
J-6, Thiruvanmiyur Police Station,
Chennai District.
2. The Principal Sessions Judge Court,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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