



Crl.O.P.No. 11157 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM:

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

Crl.O.P.No.11157 of 2025

and

Crl.M.P.Nos.7445 & 7446 of 2025

1.Varun Kumar
2.Suguna Bhai
3.Mathiyarasi
4.Harirajan
5.Janardhanan

..... Petitioners

Vs

1.The state rep by
The Inspector of Police,
All Woman Police Station,
Selayur.
Crime No.12 of 2024

2.Premavathy

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.40 of 2025 on the file of Judicial Magistrate - II, Tambaram and quash the same

For Petitioners : Mr.S.Patrick

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



Crl.O.P.No. 11157 of 2025

ORDER

WEB COPY

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.40 of 2025 pending on the file of the Judicial Magistrate No.II, Tambaram, thereby taken cognizance for the offences under Sections 498(A), 294(b), 323 & 506(i) of IPC and Section 4 of Dowry Prohibition Act, 1961 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that the petitioner, along with his family members, harassed the defacto complainant/second respondent herein and demanded a huge dowry from her. It is further alleged that the second respondent was driven out from the matrimonial home and was threatened by the first petitioner to give her consent for a divorce. Hence, the complaint.

3. The learned counsel appearing for the petitioners submitted that the entire family members has been falsely implicated in this case. He further submitted that there are no specific allegations made against the petitioners that would attract the ingredients of the offence as alleged by the prosecution. In fact, it is submitted that the



Crl.O.P.No. 11157 of 2025

WEB COM

in-laws of the second respondent are living separately and no involvement whatsoever in the matrimonial dispute between the first petitioner and the second respondent herein.

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.12 of 2024 for the offences under Sections Sections 498(A), 294(b), 323 & 506(i) of IPC and Section 4 of Dowry Prohibition Act, 1961 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.40 of 2025 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 petitioners which attract the offences under



Crl.O.P.No. 11157 of 2025

Sections 498(A), 294(b), 323 & 506(i) of IPC and Section 4 of Dowry Prohibition Act, 1961 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002.

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



Crl.O.P.No. 11157 of 2025

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 stage i.e., during trial.



CrI.O.P.No. 11157 of 2025

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.

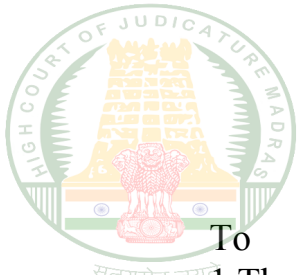
11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.40 of 2025 on the file of the Judicial Magistrate No.II, Tambaram. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the age of the petitioners, the personal appearance of the petitioners 2 to 5 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.

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

16.04.2025

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

Page 6 of 8



Crl.O.P.No. 11157 of 2025

To

1.The Judicial Magistrate - II,
Tambaram

2.The Inspector of Police,
All Woman Police Station,
Selayur.

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



WEB COPY



Crl.O.P.No. 11157 of 2025

G.K.ILANTHIRAIYAN, J.

Lpp

Crl.O.P.No. 11157 of 2025

16.04.2025