



Crl.O.P.No.10609 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

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

Crl.O.P.No. 10609 of 2025 and
Crl.M.P.Nos.7051 and 7052 of 2025

Balaraman

.... Petitioner

Vs

1.The State rep by the
Inspector of Police,
Tirupathur Town Police Station,
Tirupathur District.
(Crime No.325 of 2024).

2.Divya

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pending on the file of the learned Principal District and Sessions Court, Thirupathur, Thirupathur District in S.C.No.16 of 2025 and quash the criminal proceeding.

For Petitioner : Mr.E.Kannadasan

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



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in S.C.No.16 of 2025 on the file of the learned Principal District and Sessions Court, Thirupathur, Thirupathur District.

2. The case of the prosecution is that the second respondent approached the petitioner seeking employment, and accordingly, the petitioner asked her to join duty. On 28.07.2024, at about 10.00 A.M., the second respondent went to the petitioner's shop, where the petitioner allegedly took her upstairs to a dark room, made an inappropriate request to "adjust" with him, and asked her not to disclose the incident to anyone. Thereafter, she left the shop at about 11.00 A.M., and lodged a complaint on the following day, i.e., 29.07.2024. Based on her complaint, the first respondent police registered a case against the petitioner under Section 75 of the BNS, 2023. After completion of investigation, the first respondent filed the final report before the Principal District and Sessions Court, Thirupathur, Thirupathur District and the same was taken cognizance in S.C.No.16 of 2025.



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3. The learned counsel for the petitioner submitted that even if the allegations are taken at face value, the ingredients necessary to constitute an offence under Section 75 of the BNS are not at all attracted. He further contends that the complaint is motivated and the allegations are vague and bereft of any specific overt act. He also points out the delay in lodging the complaint, and submits that the FIR has been registered solely with the intention of harassing the petitioner. Hence, he prays to quash the proceedings.

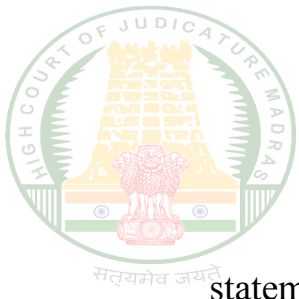
4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the allegations made in the complaint *prima facie* disclose a cognizable offence. It is further submitted that whether the petitioner's conduct amounts to an offence under Section 75 of BNS is a matter of trial and cannot be adjudicated upon at the stage of quashing. Hence, he prays for dismissal of this petition.

5. Heard both sides and perused the materials placed before this



6. It is well settled that the power conferred under Section 528 of BNSS., is intended to prevent injustice, and must be exercised only in rare and compelling cases where the criminal proceedings are palpably motivated or untenable. In the present case, the complaint contains specific allegations with regard to the conduct of the petitioner on the date of the incident. The question as to whether the conduct amounts to an offence under Section 75 of BNS involves a factual determination which cannot be gone into at this stage. It is for the Investigating Officer to collect materials and for the Trial Court to assess the same during the course of trial.

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. (Criminal Appeal No.579 of 2019, dated 02.04.2019)**, while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the



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statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

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 (Criminal Appeal No.1572 of 2019, dated 17.10.2019)***, held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

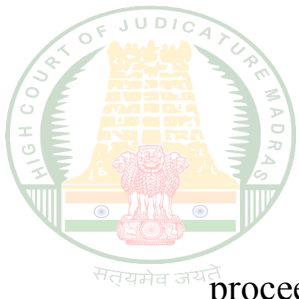


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9. The Hon'ble Supreme Court of India, in another judgment ***dated 02.12.2019*** passed in ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.***, held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to disprove the allegations is a matter to be determined during trial.

10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire



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proceedings at this stage.
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11. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.16 of 2025 on the file of the learned Principal District and Sessions Court, Thirupathur, Thirupathur District. The petitioner is at liberty to raise all the grounds before the trial Court. 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 closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

shk

To

- 1.The Principal District and Sessions Court, Thirupathur, Thirupathur District
- 2.The Inspector of Police,
Tirupathur Town Police Station,
Tirupathur District.
3. The Public Prosecutor, High Court, Madras.

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