



Crl.O.P.No.11338 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.11338 of 2025 and
Crl.M.P.Nos.7532 and 7533 of 2025

Viswanathan

...Petitioner

-Vs-

1. State rep. by

The Inspector of Police,
E-5, Foreshore Estate Police Station,
Chennai 600 028.
(Crime No.9 of 2023)

2. Sathya

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.1194
of 2024 on the file of XXIII M.M. Saidapet, Chennai and quash the
same.

For Petitioner(s): Mr.Prakash Goklaney

For Respondent :Mr.A.Gopinath for R1
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 C.C.No.1194 of 2024 on the file of XXIII Metropolitan Magistrate, Saidapet, Chennai.

2. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.9 of 2023 for the offences under Sections 354A of IPC r/w Section 4 of TNPHW Act, Section 67 of IT Act, 2000.

3 The case of the prosecution is that the defacto complainant has been employed as Chief Supervisor at M/s.M.Damodaran Associates LLP for over six years and the petitioner/accused, also an employee of the said firm, had spread abusive words through e-mail dated 29.12.2022 and 30.12.2022 to his co-workers. The email falsely alleged that “Ms.Sathya spoke sexually abusive things to me in the office premises” due to which, a tussle arose between the said Sathya and her husband. The accused also circulated these messages to the employees and business associates of the firm pushing the defacto complainant into severe mental distress and instigating her to commit suicide. The defacto complainant faced significant mental agony and humiliation due to these actions. Hence, the complaint.



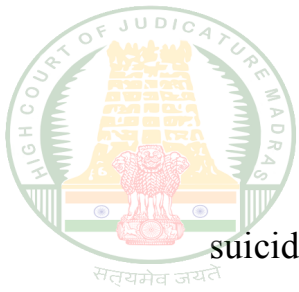
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4. After completion of investigation, the 1st respondent filed a final report and the same has been taken cognizance by the Trial Court in C.C.No.1194 of 2024.

5. The learned counsel for the petitioner submitted that even according to the prosecution's case, the only allegation against the petitioner is that he sent an email stating “Ms.Sathya spoke sexually abusive things to me in the office premises”, except this statement, no other allegation has been made against the petitioner.

6. In fact, at the stage of registration of FIR, the petitioner filed a petition to quash the proceedings before this Court in Crl.O.P.No.2895 of 2023. This Court, considered the facts and circumstances of the case and granted an interim stay. While the interim stay was in force, the 1st respondent continued the investigation and filed final report in violation of the interim order. Therefore, absolutely there is no material to attract any of the offences alleged by the prosecution.

7. On perusal of the records, it is seen that the petitioner had sent emails to other co-workers. The petitioner was continuously harassing the 2nd respondent in various aspects including sexual harassment, which ultimately led the defacto complainant to commit



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suicide.

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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 *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.

9. 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



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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.

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 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



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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, the grounds raised by the petitioner can be considered only before the Trial Court during the trial. Therefore, this Court is not inclined to quash the proceedings in C.C.No.1194 of 2024 on the file of XXIII Metropolitan Magistrate, Saidapet, Chennai.

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

17.04.2025

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
nr

To

1. The XXIII Metropolitan Magistrate, Saidapet, Chennai.
2. The Inspector of Police,
E-5, Foreshore Estate Police Station,
Chennai 600 028.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.

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