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Crl.O.P.No.13222 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2025

CORAM:

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

Crl.O.P.No.13222 of 2025
and Crl.M.P.Nos.8756 & 8759 of 2025

1. Hariharan @Krishnamoorthy
2. Vaithegi

... Petitioners

Vs.

1. The State rep. by
The Inspector of Police,
T-6, Peerakkankaranai Police Station,
Tambaram City Police,
Chengalpattu District.
(Cr.No.426 of 2023)

2. Vidhyalakshmi @ Vijayalakshmi

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records of the charge sheet filed in C.C.No.136 of 2025 on the file of Judicial Magistrate No.I, Tambaram, Chengalpattu District and quash the same.

For Petitioners : Mr. M.R.Jothimanian

For Respondents

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



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ORDER

This petition has been filed to quash the proceedings in C.C.No.136 of 2025 on the file of the learned Judicial Magistrate No.I, Tambaram, Chengalpattu District, thereby taken cognizance for the offences under Sections 294(b), 323, 506(1) IPC in Crime No.426 of 2023, as against this petitioners.

2. The case of the prosecution is that the defacto complainant is the wife of the first petitioner and they got married on 24.05.2023. It is alleged that the petitioners abused the second respondent and her family member with filthy and also attacked the second respondent, due to which she sustained injury and admitted in hospital. Hence the complaint.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. He further submitted that the complaint itself is a belated one and in order to wreck vengeance, false complaint has been foisted as against the petitioners. Without any base, the first respondent police registered a case in Crime No.426 of 2023 for the offences under



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Sections 294(b), 323, 506(1) IPC, as against the petitioners and the same has been taken cognizance in C.C.No.136 of 2025 on the file of the learned Judicial Magistrate No.I, Tambaram, Chengalpattu District,. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and the trial Court issued summon on the petitioners and it is pending.

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.426 of 2023 for the offences under Sections 294(b), 323, 506(1) IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.136 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioners filed the present



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petition. It is a family dispute between the husband and wife and on perusal of the records, it is revealed that there are specific allegations to attract the offences punishable under Sections 294(b), 323, 506(1) IPC.

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. Fruther, the Hon'ble Supreme Court of India in the judgment



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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 allegations contained in the complaint, even if accepted in entirety, would not constitute

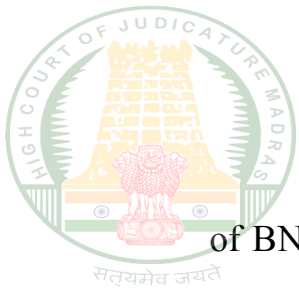


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the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

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.136 of 2025 on the file of the learned Judicial Magistrate No.I, Tambaram, Chengalpattu District. The petitioners are at liberty to raise all the grounds before the trial Court. Considering the facts of the case, 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 under Section 351



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of BNSS and at the time of passing judgment. 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 also closed.

28.04.2025

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

rts

To

1. The Judicial Magistrate No.I,
Tambaram, Chengalpattu District

2. The Inspector of Police,
T-6, Peerakkankaranai Police Station,
Tambaram City Police,
Chengalpattu District.

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



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