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Crl.O.P.No.12680 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

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

Crl.O.P.No. 12680 of 2025 and
Crl.M.P.Nos.8381 and 8382 of 2025

D.Kabilan

.... Petitioner

Vs

1.The Superintendent of Police,
Ariyalur,
Ariyalur District.

2.The State represented by the
Inspector of Police,
Jayankondam Police Station,
Ariyalur District.

3.Kaviyarasan

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records of Spl.SC.No.4 of 2025, pending on the file of the learned Principal District and Sessions Judge, Ariyalur and quash the same.

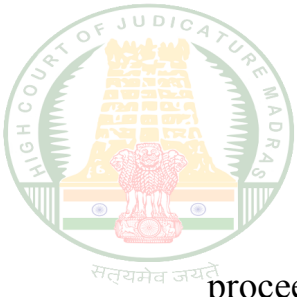
For Petitioner : Mr.B.Balavijayan

For R1 and R2 : Mr.A.Gopinath

Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the



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proceedings in Spl.SC.No.4 of 2025, pending on the file of the learned Principal District and Sessions Judge, Ariyalur.

2. The case of the prosecution is that on 19.10.2024, at around 10:30 AM, the third respondent, belonging to the Scheduled Caste community, and his friend were at a lake near Throwpathi Amman Koil Street, Melakudiyiruppu. While being so, two unknown persons allegedly stopped them, questioned their presence, forcibly took the third respondent's phone, and on seeing a political leader's photo as wallpaper, verbally abused him with caste-based slurs and assaulted him. Later, the third respondent identified the assailants as one Raj (A1) and the petitioner (A2). Based on his complaint, an FIR was registered for the offences punishable under Sections 126(2), 296(b), 115(2), 351(2) of BNS Act and Section 3(1)(r), 3(1)(s), 3(2)(va) of SC / ST (Prevention of Atrocities) Act, 1989. After completion of investigation, the second respondent filed the final report before the learned Principal District and Sessions Judge, Ariyalur and the same was taken cognizance in Spl.SC.No.4 of 2025.



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3. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in the case due to political rivalry. He further contended that the FIR and final report do not disclose any specific overt act attributable to the petitioner warranting the invocation of the stringent provisions of the SC/ST (Prevention of Atrocities) Act. It is further submitted that even assuming the allegations to be true, the essential ingredients of the offences alleged are not made out as against the petitioner, and thus, the continuation of proceedings amounts to abuse of process of law.

4. The learned Government Advocate (Criminal Side), on instructions, opposed the quash petition and submitted that the materials collected during the investigation, including the statement of the third respondent and other witnesses, clearly implicate the petitioner in the incident. It is further submitted that the allegations attract the provisions of both the BNS and the SC/ST (Prevention of Atrocities) Act, and the same can be adjudicated only during the course of trial. Hence, he prays for the dismissal of this petition.



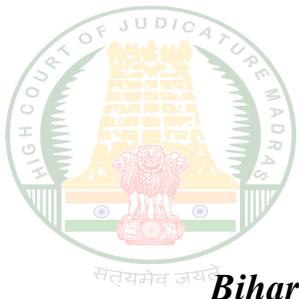
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5. Heard both sides and perused the materials placed before this Court.

6. On consideration of the submissions made by both sides and the materials placed on record, this Court finds that the allegations in the final report *prima facie* disclose the commission of offences under the relevant provisions of law, including those under the SC/ST (Prevention of Atrocities) Act. The question whether the petitioner is guilty or not is a matter for trial and cannot be decided in a quash petition at the threshold stage. This Court also finds that the petitioner, being arrayed as A2, stands on similar footing with A1, and the complaint specifically attributes overt acts against both accused. The contentions raised by the petitioner involve disputed questions of fact, which require appreciation of evidence and cannot be gone into in proceedings under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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***



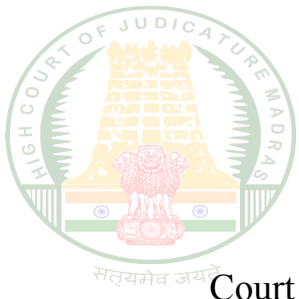
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Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019),

while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the 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



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Court has no power to consider 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 ***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



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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 proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.SC.No.4 of 2025, pending on the file of the learned Principal District and Sessions Judge, Ariyalur. The petitioner is at liberty to raise all the grounds before the Trial Court. The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner 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. The Trial Court is directed to complete the trial within a period of nine months from the date of receipt of copy of this Order.



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G.K.ILANTHIRAIYAN, J.

shk

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

24.04.2025

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

To

1.The Principal District and Sessions Judge, Ariyalur.

2.The Superintendent of Police,
Ariyalur,
Ariyalur District.

3.The State represented by the
Inspector of Police,
Jayankondam Police Station,
Ariyalur District.

4. The Public Prosecutor, High Court, Madras.

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