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Crl.O.P.No.13193 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. 13193 of 2025 and
Crl.M.P.Nos.8738 and 8736 of 2025

Rahul @ Sri Rahul

.... Petitioner

Vs

1.The State rep by,
The Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.
(Crime No.33 of 2023).

2.Kulandhaivel

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in S.C.No.41 of 2024 on the file of the learned I Additional District Judge, Namakkal and to quash the same in so far as the petitioner (A-2) is concerned.

For Petitioner : Mr.R.Thirumoorthy

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



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.C.No.41 of 2024 on the file of the learned I Additional District Judge, Namakkal.

2. The case of the prosecution is that on 13.04.2023 at around 2:00 AM, the second respondent heard unusual noises near his cattle shed and noticed a vehicle moving around his house. Later, his wife found a petrol-filled beer bottle with a cloth wick near the shed. The police were informed and recovered another similar bottle from the spot. It is alleged that the accused intended to cause harm to the second respondent's family and property. A similar petrol bomb attack occurred at another farmer's house on the same night, raising suspicion of a planned conspiracy to incite fear or target the second respondent for his social involvement. Based on this, an FIR was registered by the first respondent in Crime No.33 of 2023 for the offences punishable under Sections 436 and 511 of the IPC. Thereafter, the first respondent investigated the case,



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altered the penal provisions to include Section 5 of the Explosive Substances Act, and filed the final report before the I Additional District Judge, Namakkal. The case was taken cognizance in S.C. No. 41 of 2024.

3. The learned counsel for the petitioner submitted that the entire prosecution case is fabricated, false, and politically motivated. It was argued that the petitioner, who is the son of the second respondent, has been falsely implicated without any direct evidence of his involvement in the alleged incident. The FIR was initially registered under Sections 436 and 511 of the IPC and later altered to include Section 5 of the Explosive Substances Act without proper basis. The learned counsel for the petitioner emphasized that the allegations are inherently improbable as it is alleged that the petitioner threw a petrol bomb at his own house while his father was inside. It was contended that no sane person would commit such a reckless act endangering his own family, and that the recovery of petrol bombs from the vicinity is insufficient to implicate the petitioner without corroborative material. Hence, he prays to quash the proceedings.



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4. The learned Government Advocate (crl.side) opposed the petition, stating that the investigation revealed sufficient materials indicating the petitioner's involvement in a pre-planned act to instill fear and possibly target his own father due to underlying familial or property disputes. It was submitted that two petrol bombs were recovered from the scene, one of which was found by the second respondent's wife and another recovered by the police after inspection. The nature of the act, timing, and similarity with another incident on the same night in a nearby location suggest a larger conspiracy. Hence, he prays for dismissal of this petition.

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

6. On perusal of the case records, this Court finds no ground to quash the proceedings at this stage. The allegations made as against the petitioner are serious in nature, involving the use of petrol bombs and an alleged attempt to cause harm to life and property. The contention that



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the petitioner would not throw a petrol bomb at his own house does not, by itself, exonerate him from trial, particularly when the investigation has resulted in a charge sheet with supporting material. The circumstances, including the timing of the act, recovery of explosive substances, and its similarity to another incident on the same night, are matters that require appreciation of evidence during 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 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



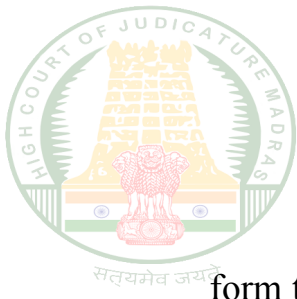
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Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

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.

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



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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 proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.41 of 2024 on the file of the learned I Additional District Judge, Namakkal. The petitioner is at liberty to raise all the grounds before the Trial Court. The Trial Court is directed to



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complete the trial within a period of three 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.

28.04.2025

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



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To

- 1.The I Additional District Judge, Namakkal
- 2.The Inspector of Police,
Jedarpalayam Police Station,
Namakkal District.
3. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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