



WEB COPY



Crl.O.P.No.13952 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2025

CORAM:

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

Crl.O.P.No.13952 of 2025
and Crl.M.P.Nos.9365 & 9367 of 2025

Chandirasekar

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Anandapuram Police Station,
Villupuram District.

2. Rajalakshmi

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records of the case in C.C.No.232 of 2024 on the file of the learned Judicial Magistrate Court, Gingee, quash the same.

For Petitioner : Mr. R.Govindasamy

For Respondents

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



Crl.O.P.No.13952 of 2025

ORDER

WEB COPY

This petition has been filed to quash the proceedings in C.C.No.232 of 2024 on the file of the learned Judicial Magistrate Court, Gingee, thereby taken cognizance for the offences under Sections 294(b), 506(2), 352 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002 in Crime No.116 of 2023, as against this petitioner.

2. The case of the prosecution is that the defacto complainant's husband borrowed a sum of Rs.50,000/- from the petitioner herein and thereafter, he repaid the same with interest. However, on 20.05.2023, the petitioner along with other accused persons came to the defacto complainant's house and abused, attacked and criminally intimidated her with dire consequences. Hence, the complaint.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police



Crl.O.P.No.13952 of 2025

registered a case in Crime No.116 of 2023 for the offences under Sections 294(b), 506(2), 323 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, as against the petitioner and the same has been taken cognizance in C.C.No.232 of 2024 on the file of the learned Judicial Magistrate Court, Gingee. Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial is pending before the Court below.

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.116 of 2023 for the offences under Sections 294(b), 506(2), 323 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.232 of 2024 for the offences



Crl.O.P.No.13952 of 2025

punishable under Sections 294(b), 506(2), 352 of IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

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.



Crl.O.P.No.13952 of 2025

WEB COPY

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, (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



Crl.O.P.No.13952 of 2025

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.

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 petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.232 of 2024 on the file of the learned Judicial Magistrate Court, Gingee. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts of the case, 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



Crl.O.P.No.13952 of 2025

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 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.

30.04.2025

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

To

1. Judicial Magistrate Court,
Gingee.

2. The Inspector of Police,
Anandapuram Police Station,
Villupuram District.

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



WEB COPY



Crl.O.P.No.13952 of 2025

G.K.ILANTHIRAIYAN. J.

rts

Crl.O.P.No.13952 of 2025
and Crl.M.P.Nos.9365 & 9367 of 2025

30.04.2025