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Crl.O.P.No.13169 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. 13169 of 2025 and
Crl.M.P.Nos.8725 and 8726 of 2025

1.S.Arumugam
2.M.Rajkumar
3.E.Prakash
4.K.Madheswaran @ Madesh
5.P.Tamilselvan @ Tamil.

.... Petitioners

Vs

State by
1.Inspector of Police,
Magudamchavadi Police Station,
Magudamchavadi,
Salem District.
(Crime No.208 of 2022).

2.Rajammal

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records concerned in Charge Sheet in C.C.No.274 of 2024 on the file of the Judicial Magistrate II, Sankagiri, Salem District and quash the same in so far relates to the petitioner.



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For Petitioners : M/s.R.Hemalatha
For R1 : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.274 of 2024 on the file of the Judicial Magistrate II, Sankagiri, Salem District.

2. The case of the prosecution is that on 22.09.2019, at around 10:00 AM, the petitioners gathered unlawfully with the common intention of attacking the second respondent (witness-1) and one Rukmani (witness-2) at their residence in Iyanthottam, Kaaligoundampalayam. The accused caused a riot and disturbance. During the incident, the fourth petitioner (A4) set fire to the second respondent's hut in the forest, causing significant damage. The petitioners 1 to 3, physically attacked the second respondent, thereby causing minor injuries. They also attacked the said Rukmani, thereby inflicting bodily injury. Based on this, a case has been registered as against the petitioners



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in Crime No.208 of 2022 for the offences punishable under Sections 147, 149, 435, 323 and 379 of IPC. After completion of investigation, the first respondent filed the final report before the Judicial Magistrate II, Sankagiri, Salem District and the same was taken cognizance in C.C.No.274 of 2024.

3. The learned counsel for the petitioners submitted that the complaint lodged against the petitioners pertains to a civil dispute between the parties and does not involve any criminal offence. It is asserted that the allegations made by the second respondent are false and fabricated with the intention to settle personal scores. The dispute over the agricultural land is of a civil nature, and the second respondent's attempt to criminalize a purely civil issue ought not to have been entertained by this Court. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (crl.side) submitted that the allegations in the complaint are specific and well within the scope of criminal law. The second respondent has alleged that the accused unlawfully assembled and caused damage to her property, including



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setting fire to the huts. 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 perusal of the case records, this Court observes that the complaint contains specific allegations of criminal conduct by the accused, including setting fire to the property of the second respondent and causing harm to the witnesses. These allegations, if proven, would constitute serious criminal offences such as mischief by fire and assault. Though the petitioner asserts that the dispute is purely civil in nature, this Court observes that the allegations in the complaint point to the commission of criminal acts. The mere existence of a civil dispute between the parties does not rule out the possibility of criminal offences being committed. In view of the serious nature of the allegations and the possibility of criminal liability, this Court is of the view that the matter must be decided through a trial, where the evidence can be thoroughly examined and both parties can present their respective arguments.



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Therefore, the present criminal proceedings cannot be quashed at this stage, as there is sufficient cause for the continuation of the case.

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 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***

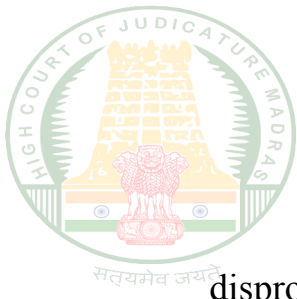


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Investigation vs. Arvind Khanna (Criminal Appeal No.1572 of 2019, dated 17.10.2019), held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after appreciation of evidence by the Trial Court during 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 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



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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 petitioners 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 C.C.No.274 of 2024 on the file of the Judicial Magistrate II, Sankagiri, Salem District. The petitioners are at liberty to raise all the grounds before the Trial Court. 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 of BNSS and at the time of passing judgment. The Trial Court is directed to complete the trial



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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 closed.

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



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To

- 1.The Judicial Magistrate II, Sankagiri, Salem District.
- 2.The Inspector of Police,
Magudamchavadi Police Station,
Magudamchavadi,
Salem District.
3. The Public Prosecutor, High Court, Madras.



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G.K.ILANTHIRAIYAN, J.
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