



Crl.O.P.No.13775 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2025

CORAM:

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

Crl.O.P.No. 13775 of 2025 and
Crl.M.P.Nos.9200 and 9201 of 2025

1.V.Kathiravan
2.B.Shobana
3.Vanitha
4.Sasikala

.... Petitioners

Vs

1.The State
Rep. by Inspector of Police,
Banavaram Police Station,
Ranipet District.
Crime No.33 of 2025.

2.K.Maheshwari

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the proceedings in C.C.No.57 of 2025, pending on the file of the learned Judicial Magistrate, Sholingar for alleged offences under Sections 296(b), 115(2), 351(2) of BNS r/w Section 4 of Tamil Nadu prohibition of Harassment of Women Act, 2002.



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For Petitioners : Mr.J.S.Arunkumar

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.57 of 2025, pending on the file of the learned Judicial Magistrate, Sholingar.

2. The case of the prosecution is that on 26.01.2025, while the second respondent was carrying out construction work on her property situated at Banavaram Village, comprised in Survey No. 445/1, bearing Patta No. 1016, the petitioners abused her in filthy language, physically assaulted her by pulling her dress, and issued life threats. Based on the complaint lodged by the second respondent, the first respondent police registered a case in Crime No. 33 of 2025 against the petitioners for the offences punishable under Sections 296(b), 115(2), 351(2) of BNS, 2023 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed the



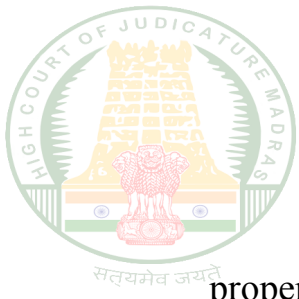
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final report before the learned Judicial Magistrate, Sholingar and the same was taken cognizance in C.C.No.57 of 2025.

3. The learned counsel for the petitioners submitted that the allegations made in the complaint are false, baseless, and motivated by personal enmity. It was contended that there is a material contradiction between the complaint lodged by the second respondent and the statement recorded under Section 180(3) of BNSS., which casts doubt on the veracity of the prosecution's case. The learned counsel further argued that the petitioners have been falsely implicated in this case, and continuation of the criminal proceedings would amount to abuse of process of law. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (Crl. Side) opposed the quash petition and submitted that the complaint clearly discloses specific and direct allegations as against the petitioners. It was pointed out that the second respondent has specifically alleged that the petitioners abused her in filthy language, physically assaulted her by pulling her dress, and issued life threats while she was carrying out construction work at her



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property. These allegations, *prima facie*, attract the ingredients of the alleged offences. Hence, he prays for the 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 is of the view that there are specific and serious allegations made as against the petitioners, which, *prima facie*, attract the offences punishable under Sections 296(b), 115(2), 351(2) of BNS, 2023 and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002. The contention of the petitioners regarding contradiction between the initial complaint and the statement recorded under Section 180 of BNSS., involves appreciation of facts and evidence, which can only be examined during the course of trial. It is settled law that the power under Section 528 of BNSS., has to be exercised sparingly and with great caution. In the present case, the allegations made in the complaint and the materials collected during the investigation disclose a cognizable offence and warrant investigation/trial.

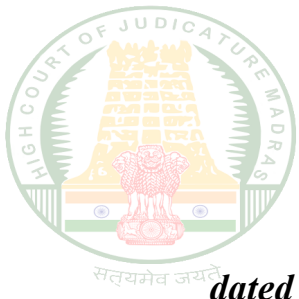


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7. The Hon'ble Supreme Court of India, in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh vs. State of Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash 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 Investigation vs. Arvind Khanna (Criminal Appeal No.1572 of 2019)***,



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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 disprove the allegations is a matter to be determined during trial.



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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.57 of 2025, pending on the file of the learned Judicial Magistrate, Sholingar. The petitioners are at liberty to raise all the grounds before the Trial Court. 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.

G.K.ILANTHIRAIYAN, J.

shk

12. Accordingly, the Criminal Original Petition stands dismissed.



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Consequently, connected miscellaneous petitions are closed.

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

To

1.The Judicial Magistrate, Sholingar.

2.The Inspector of Police,
Banavaram Police Station,
Ranipet District.

3. The Public Prosecutor, High Court, Madras.

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