



Crl.O.P.No. 16858 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2025

CORAM:

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

Crl.O.P.No.16858 of 2023 and
Crl.M.P.Nos.10838 and 10839 of 2023

Anand Sharma

... Petitioner

Vs.

1.State rep. By
The Inspector of Police,
AWPS Central Police Station,
Coimbatore District.
(Crime No.4 of 2021)

2.J.Dhanalakshmi

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in PRC No.1 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Coimbatore and quash the same.

For Petitioner : Mr.Guruprasad

For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)



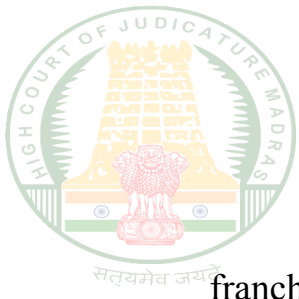
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ORDER

This petition has been filed to quash the proceedings in PRC No.1 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Coimbatore.

2. The case of the prosecution is that on 25.05.2021, the second respondent filed a complaint against the petitioner, stating that she had separated from her husband and was living with her two children and elderly parents in Coimbatore. She had a small trading business that suffered a major loss in 2019, prompting her to join the OKC site to rebuild her network, where she met the petitioner herein / accused who inspired her and helped with her business recovery. During their interactions, the accused proposed to the complainant, claiming her as part of his life. Under the pretext of marriage, the accused made several false promises and had forceful sexual intercourse with the complainant on 19.09.2020 in hotel Vivanta. Further, the accused asked her to move out of her parents' house, quit her current business, and find business



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franchises for him to invest 10 lakhs. That apart, she claims the petitioner promised to arrange a divorce between her and her husband. The accused also promised to marry her and that they shared a close personal and physical relationship, but later refused to marry her. Hence, the case.

3. The learned counsel for the petitioner submits that based on the complaint lodged by the second respondent, the first respondent registered FIR in Crime No. 4 of 2021 for offences punishable under Section 376(1), 417, and 506(i) of IPC. On completion of the investigation, the first respondent filed the final report for the offences under Section 376(1), 417, 406, and 507 of the IPC. The matter is now pending trial before the Judicial Magistrate, Additional Mahila Court, Coimbatore. The learned counsel for the petitioner further submits that the petitioner is a married man and is already the father of a female child. It is contended that the second respondent has lodged a false complaint against the petitioner with the ulterior motive of extorting money from him and tarnishing his reputation. The petitioner denies the occurrence of the events as alleged in the complaint. That apart, it is argued that the



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second respondent has wrongfully implicated the family members of the petitioner as accused in the matter.

4. The learned Government Advocate (crl.side) would submit that under the pretext of marriage, the petitioner established a physical relationship with her. The petitioner is accused of misleading the second respondent with false promises, which caused her harm and distress. The investigation has revealed sufficient *prima facie* evidence to proceed with the charges. The matter is now pending trial, and to assess the veracity of the allegation, the Government Advocate (crl.side) requests that the trial may be allowed to proceed in accordance with law.

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

6. On perusal of the statement recorded from the second respondent, it appears that she is a married woman and has given birth to two children. Subsequently, due to a misunderstanding between the



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second respondent and her husband, they got separated, and the second respondent has been living with her parents. The second respondent is engaged in a small trading business for her livelihood. It is further stated that the second respondent had been in Dubai and, on her return to India, she sought to engage in business. To facilitate this, she posted her contact details on a dating app. The petitioner, having utilized this platform, contacted the second respondent, and with his assistance, she was able to continue her business for her livelihood. During the course of their interactions, the petitioner allegedly promised to marry the second respondent. While being so, on 19.09.2020 on the pretext of marriage and also on compulsion he committed rape on her.

7. It is further stated that thereafter, the petitioner assured the second respondent that he would obtain a divorce from his wife by mutual consent, as they had already separated and were living separately. Believing these assurances, the second respondent was once again compelled by the petitioner to engage in a physical relationship under the pretext of marriage. Subsequently, for various reasons, the petitioner



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allegedly abandoned the second respondent, deceived her, and caused harm. As such, there are specific allegations against the petitioner that attract the offences under Sections 376(1), 417, 406, and 507 of IPC.

8. 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.

9. Further, the Hon'ble Supreme Court of India in the judgment

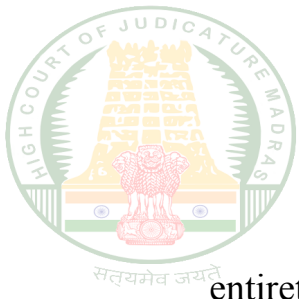


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reported in **2019 (10) SCC 686** in the case of ***Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019*** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused 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.

10. 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 allegations contained in the complaint, even if accepted in



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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.

11. In view of the above, this Court is not inclined to quash the proceeding in PRC No.1 of 2022 on the file of the Judicial Magistrate, Additional Mahila Court, Coimbatore. Further, the Trial Court is hereby directed to complete the trial within a period of six months from the date of committal. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

26.03.2025

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

1. The Inspector of Police,
AWPS Central Police Station,
Coimbatore District.

2. Judicial Magistrate, Additional Mahila Court, Coimbatore

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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