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Crl.OP.No.23713 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2025

CORAM:

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

Crl.O.P.No.23713 of 2024

and

CRL.MP.No.13421 of 2024

1.Syed Rasheeth
2.Zeenth Nisha
3.Fougiya Fathima

... Petitioners

Vs.

1.The State rep. by its Inspector of Police
All Women Police Station
Tiruppur South
Tiruppur District

2.S.Thabasiya ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to quash the charge sheet in C.C.No.477 of 2024 pending on the file of Judicial Magistrate, Additional Mahila Court, Tiruppur.

For Petitioners : Mr.I.M.Siddartha Ramarajan

For Respondent : Mr.R.Vinothraja
Govt. Advocate (Crl. Side) - R1



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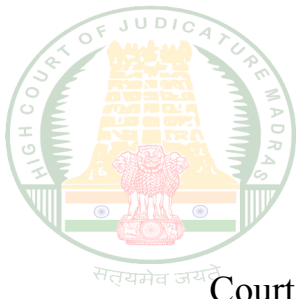
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ORDER

This Criminal Original Petition is filed to quash the proceedings C.C.No.477 of 2024 the file of the Judicial Magistrate, Additional Mahila Court, Tiruppur.

2. The case of the prosecution is that the second respondent/defacto complainant married the first accused on 01.05.2023. At the time of marriage, as per the alleged demand of the accused persons, the parents of the second respondent presented gold jewellery and household articles. Subsequently, the first accused is alleged to have subjected the second respondent to cruelty and unnatural sexual acts. It is further alleged that all the accused persons harassed and physically assaulted the second respondent. Hence, the present complaint.

3. On the complaint lodged by the second respondent, the first respondent registered the FIR as against the petitioners in Cr.No.9 of 2024 for the offences under Sections 498A, 294(b), 323, 506(i), 354A, 341 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed a final report before the Judicial Magistrate, Additional Mahila



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Court, Tiruppur and the same has been taken cognizance in C.C.No.477 of 2024 and the same is pending. To quash the said proceedings, the present petition has been filed.

4. The learned Counsel appearing for the petitioner would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Based on a complaint lodged by the first accused herein, an FIR has been registered in Cr.No.175 of 2024 against the family members of the second respondent. It is pertinent to note that the second respondent is not arrayed as an accused in the said FIR; only her family members have been implicated. However, the allegations in the said FIR are entirely unrelated to the present proceedings initiated against the petitioner. Hence he prayed to quash the same.

5. The learned Government Advocate (Crl. Side) appearing for the first respondent police reiterated the prosecution case and opposed to allow the petition.

6. Heard the learned Counsel appearing on either side and perused the materials placed on record.

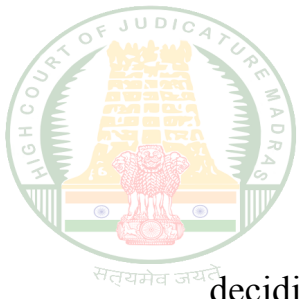


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7. It is seen that on the complaint lodged by the second respondent, the first respondent registered the FIR as against the petitioners in Cr.No.9 of 2024 for the offences under Sections 498A, 294(b), 323, 506(i), 354A, 341 of IPC and Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002. After completion of investigation, the first respondent filed a final report before the Judicial Magistrate, Additional Mahila Court, Tiruppur and the same has been taken cognizance in C.C.No.477 of 2024 and the same is pending. To quash the said proceedings, the present petition has been filed.

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



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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 161 of Cr.P.C.

9. 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 482 of Cr.P.C.

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



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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 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. 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.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.477 of 2024 pending on the file of the learned Judicial Magistrate, Additional Mahila Court, Tiruppur. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioners 2 and 3, the personal appearance of the petitioners are dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 2



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and 3 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 within a period of three months from the date of receipt of copy of this Order.

13. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

29.04.2025

Vv

To

1.The Judicial Magistrate
Additional Mahila Court
Tiruppur

2.The Inspector of Police
All Women Police Station
Tiruppur South
Tiruppur District

3.The Public Prosecutor
High Court of Madras
Chennai

G.K.ILANTHIRAIYAN, J.



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