



Crl.O.P.No. 18116 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.18116 of 2023 and
Crl.M.P.Nos.12027 and 12028 of 2023

Lalith @ Lalith Chowdry

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai 600 015.
Crime No.12 of 2018.

2.N.Revathy

..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 pending trial in S.C.No.93 of 2023 pending on file of the learned Sessions Judge, Mahalir Neethi Mandram, Allikulam, Chennai and quash the same as against the petitioner.

For Petitioner : M/S.DR.S.S.Swaminathan

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

For R2 : Mr.M.Kempraj



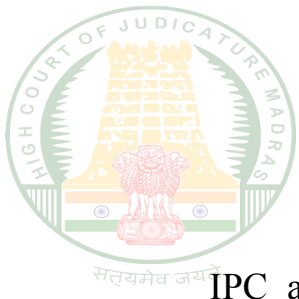
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ORDER

This petition has been filed to quash the proceedings in S.C.No.93 of 2023 pending on file of the learned Sessions Judge, Mahalir Neethi Mandram, Allikulam, Chennai.

2. The case of the prosecution, as per FIR, is that during June 2016, when the second respondent, visited the petitioner's shop, he allegedly forced her into intercourse under threat. About twenty days later, when the second respondent visited the shop again, the petitioner allegedly compelled her to have intercourse again, using her photographs as leverage. The petitioner repeated these acts on multiple occasions. In November 2016, the second respondent allegedly conceived and the petitioner pressured her to undergo an abortion, which she refused. She gave birth to a child on 18.08.2017. That apart, the petitioner demanded money from her on several occasions, thereby threatening her and driving her to attempt suicide. Based on this incident, the second respondent lodged a complaint, leading to the registration of a case in Crime No.12 of 2018 for the offences punishable under Sections 376(2)(n), 506(i) of



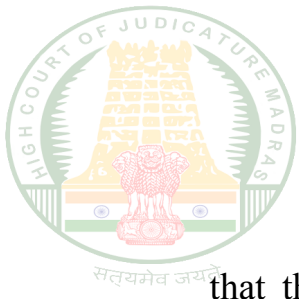
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IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 2002. After completion of investigation, the first respondent filed the final report before the Sessions Judge, Mahalir Neethi Mandram, Allikulam, Chennai and the same was taken cognizance in S.C.No.93 of 2023.

3. The learned counsel for the petitioner submitted that the alleged offence took place in the year 2016, whereas the complaint was lodged only in the year 2018, and there is no explanation for the delay in lodging the complaint. It is further submitted that the second respondent gave birth to a child, but no DNA test was conducted, as no samples were taken from the petitioner. The second respondent is a married woman, and the complaint has been falsely foisted as against the petitioner with the intention of extracting money from him. Even according to the prosecution's case, there is no allegation of kidnapping. Therefore, the offence under Section 366 of IPC is not made out as against the petitioner. Hence, he prays to quash the proceeding.

4. The learned Government Advocate (Criminal Side) submitted



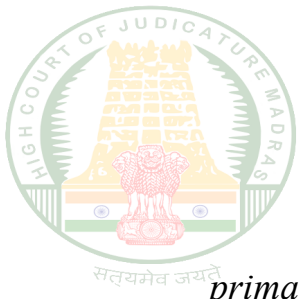
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that there are specific and serious allegations made out as against the petitioner. It is submitted that the petitioner was engaged in the business of pawn broking, and the second respondent used to visit his shop to pledge her jewellery. In the year 2016, during one such visit, the petitioner allegedly took the second respondent to a room and committed rape. The act was photographed by the petitioner, and he subsequently used those photographs to threaten her and coerce her into maintaining a physical relationship. As a result of this coercion, the second respondent gave birth to a child. It is further submitted that the petitioner assured the second respondent that he would marry her, and based on this assurance, he obtained large sums of money from her on several occasions. That part, during the course of investigation, the petitioner was subjected to a DNA test, and it was found that he is the biological father of the child born to the second respondent.

5. Heard both sides and perused the materials placed on record.

6. On perusal of the records, this Court is of the view that there are specific and serious allegations made out as against the petitioner, which

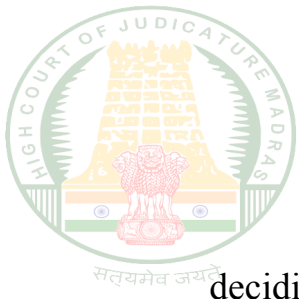


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prima facie disclose the commission of cognizable offences. The allegations pertain to repeated sexual assault under coercion, blackmail, and monetary exploitation, which cannot be treated as mere civil disputes. Further, the investigation has revealed that the petitioner is the biological father of the child born to the second respondent, as confirmed by the DNA test conducted during the course of investigation. This fact lends substantial corroboration to the prosecution's case. At this stage, this Court is not inclined to interfere, as the matter requires a full-fledged trial, and the veracity of the allegations can only be tested by way of evidence.

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



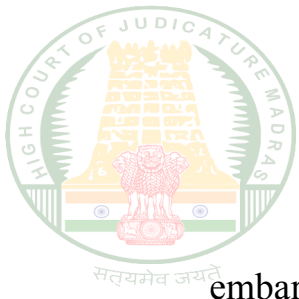
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deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, 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, 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



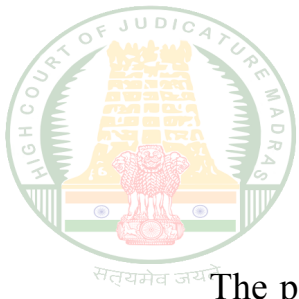
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embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also 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.

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 petitioner 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 S.C.No.93 of 2023 pending on file of the learned Sessions Judge, Mahalir Neethi Mandram, Allikulam, Chennai.



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The petitioner is 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.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are closed.

26.03.2025

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

To

1.The Sessions Judge, Mahalir Neethi Mandram, Allikulam, Chennai

2.The Inspector of Police,
W-20 All Women Police Station,
Saidapet, Chennai 600 015.

3. The Public Prosecutor,
High Court, Madras.

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