



Crl.O.P.No.1967 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 07.02.2025

CORAM:

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

Crl.O.P.No.1967 of 2025

and Crl.MP.Nos.1982 of 2025 & 1418 of 2024

Stellamary

... Petitioner

Vs.

1. State rep.by
The Inspector of Police (X)
K-1 Sembium Police Station
Chennai.

2. Kannagi

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., /528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in charge sheet pertaining to C.C.No.4264 of 2023 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai and quash the final report.

For Petitioner : Mr.U.Yuvaraj

For Respondents

For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.4264 of 2023 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, thereby taken cognizance for the offences under Sections 406, 420 & 506(i) IPC in Crime No.492 of 2022, as against this petitioner.

2. The case of the prosecution is that during the year 2015 to 2019 the defacto complainant herein worked as a house maid in the petitioner's residence. During the year 2016, the petitioner for an emergency expense requested for a hand loan from the defacto complainant but the defacto complainant had given 15 sovereigns of gold jewels and cash Rs.15,000/- to the petitioner. Thereafter the petitioner refused to return the jewels and cash and threatened the complainant with dire consequences for which the present case was registered.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and she has not committed any offence as alleged by the prosecution. There is absolutely no evidence to prove the



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alleged transaction between the petitioner and the 2nd respondent. Without any base, the first respondent police had registered a case in Crime No.492 of 2022 for the offences under Sections 406, 420 & 506(i) of IPC, as against the petitioner and the same has been taken cognizance in C.C.No.4264 of 2023 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai. Hence he prayed to quash the same.

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

5. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.492 of 2022 for the offences under Sections 406, 420 & 506(i) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.4264 of 2023 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

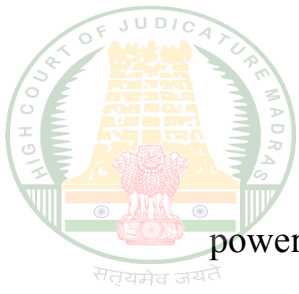


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6. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal 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 161 of Cr.P.C.

7. 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



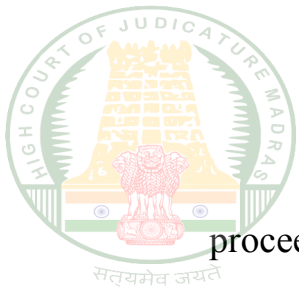
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power to consider the disputed facts under Section 482 of Cr.P.C.

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8. 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 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.

9. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal



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proceeding is malicious or not, is not required to be considered at this state.

WEB COPY The same is required to be considered at the conclusion of the trial.

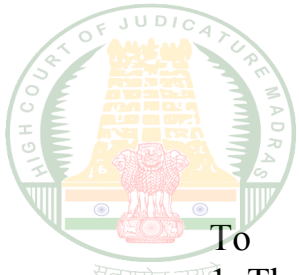
Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.4264 of 2023 on the file of the learned V Metropolitan Magistrate, Egmore, Chennai. 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.

11. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

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



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To

1. The Inspector of Police (X)
WEB COPK-1 Sembium Police Station
Chennai.

2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.
dpq

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