



Crl.O.P.No.21192 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

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

Crl.O.P.No. 21192 of 2023

and

Crl.M.P.No.14588 of 2023

N.Manikandan

.... Petitioner

Vs

1.State rep by its
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur City.
Crime No.712 of 2022

2. The Inspector of Police,
All Women Police Station
Tiruppur North
Tiruppur City.

3. Suresh Sanjay

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records in Special Case No.155 of 2022 before the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur in Crime No.712 of 2022 on the file of the first respondent police and quash the same.

For Petitioners : Mr.Rajkumar S.
For R1 & R2 : Mr.R.Vinothraja
Government Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in Special Case No.155 of 2022 pending on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur.

2. The case of the prosecution is that the petitioner fell in love with the third respondent's daughter, eloped with her and subsequently married her. It is further alleged that the petitioner had a physical relationship with the victim. Hence, the complaint.

3. The learned Government Advocate (Crl.Side) appearing for the respondents 1 and 2 submitted that the trial has already commenced and now the trial is at the stage of examination of Investigating Officer.

4. Heard the learned counsel appearing on either side and perused the materials available on record.

5. It is seen that on the complaint lodged by the third respondent, the second respondent registered a case in Crime No.712 of 2022 for the offences under Section 363 of IPC and Sections 5(I), 6 and 9 of the



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PCOSO Act. After completion of the investigation, the second respondent filed a final report and the same has been taken cognizance in Special Case No.155 of 2022 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

6. A perusal of the records reveals that there are specific averments to attract the offences under Section 363 of IPC and Sections 5(I), 6 and 9 of the PCOSO Act. 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. Fruther, 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***

WEB COPY ***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.

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.



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9. Further this Court cannot observe at this stage that 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.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in Special Case No.155 of 2022 on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tiruppur. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is closed.

28.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.



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4. The Public Prosecutor,
High Court, Madras.

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