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*Crl.O.P.No. 3679 of 2025*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

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

Crl.O.P.No. 3679 of 2025

and

Crl.M.P.Nos.2433 & 2434 of 2025

Thangaraj

.... Petitioner

Vs

1.The State Rep.By,  
The Inspector of Police,  
Moongilthuraipatti Police Station,  
Villupuram District.

2.Saravanan

.... Respondents

**Prayer:** Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records pursuant to the S.C.No.160 of 2024 on the file of the Principal and Sessions Judge, Kallakurichi and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr.Ramakrishnan

For R1 : Mr.A.Gopinath  
Government Advocate (Crl.Side)



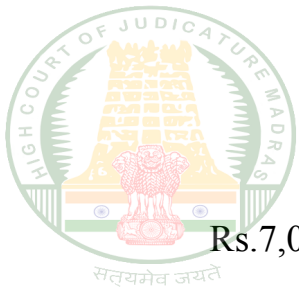
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### **ORDER**

This Criminal Original Petition has been filed to quash the S.C.No.160 of 2024 on the file of the Principal and Sessions Judge, Kallakurichi, thereby taken cognizance for the offence punishable under Section 420 r/w 306 of IPC.

2. There are totally five accused in which the petitioner is arrayed as A5. The The case of the prosecution is that the deceased, one Bhuvaneshwari, had a love marriage with her husband Selvaraj, and they were blessed with four daughters and one son. The deceased's husband is working abroad. The deceased had no connection with her parental family. The deceased used to assist women in the village in availing loans from a private bank under a women's group scheme. About a year ago, A2 borrowed a sum of Rs.25,000/- as a hand loan from the deceased for her family expenses. Subsequently, A2 introduced A3, A4 and A5, who each borrowed a hand loan of about Rs.20,000/- from the deceased. When the deceased demanded repayment of the hand loans from A2 to A5, they jointly introduced one A1, claiming that she was running a financial business under the name “VNC” and could arrange a personal loan of Rs.20,00,000/-. A1 assured that if the deceased invested



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Rs.7,00,000/-, she would arrange loan of Rs.20,00,000/- and the deceased would only have to repay Rs.10,00,000/- to complete the loan. A1 also promised that the investment amount of Rs.7,00,000/- would be repaid separately as a subsidy.

3. Based on the assurance given by A1, the deceased invested a sum of Rs.7,00,000/- in favour of A1. However, even after a few months, A1 did not arrange the promised loan. When the deceased demanded the return of her invested amount, A1 failed to repay. Thereafter, the deceased came to know that A2 to A5 were acting as agents for A1. On 24.10.020, the deceased approached the accused and demanded repayment of the invested amount. However, the accused abused the deceased in filthy language and threatened her with dire consequences. Due to which, the deceased committed suicide by setting herself on fire using Kerosene. Thereafter, she was admitted in the Government Hospital, Kilpauk, Chennai, where she latter succumbed to her injuries.

4. The learned counsel for the petitioner would submit that



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there is no specific overt act attributed as against the petitioner. Even according to the prosecution, the allegation is that the petitioner had borrowed a sum of Rs.20,00,000/- from the deceased. When it was came to the knowledge of the husband, the deceased committed suicide. It is contended that there is absolutely no role played by the petitioner in causing the deceased to commit suicide.

5. The learned Government Advocate (Crl.Side) submitted that initially, the respondent police registered an FIR in Crime No.787 of 2020 for the offence under Section 174 of Cr.P.C. After completion of the investigation, the case was altered under Section 420 r/w 306 of IPC. He further submitted that the final report was initially filed before the Judicial Magistrate No.I, Sankarapuram in PRC No.17 of 2023 and thereafter, the same was committed to the Principal and Sessions Judge, Kallakurichi in S.C.No.160 of 2024.

6. Heard the learned counsel appearing for the petitioner, the learned Government Advocate (Crl.Side) appearing for the respondents 1 & 2 and perused the materials available on record.

7. A perusal of the submissions made by the learned



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Government Advocate (Crl.Side) reveals that L.W..2 categorically deposed that the petitioner not only borrowed a sum of Rs.20,00,000/- but also acted as a commission agent. Therefore, there are specific allegations as against the petitioner to attract the offence under Section 420 and 306 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 161 of Cr.P.C

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



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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 consititue 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 consititue the offence alleged. Whether the accused will be able to prove the allegations in a manner known to



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law would arise only at a later stage i.e., during trial.

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11. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this state. 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 S.C.No.160 of 2024 on the file of the Principal Sessions Judge, Kallakurichi. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner 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.



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13. Accordingly, the Criminal Original Petition stands

dismissed. Consequently, connected miscellaneous petitions are also closed.

17.02.2025

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

To

1. The Principal and Sessions Judge, Kallakurichi.

2. The Inspector of Police,  
Moongilthuraipatti Police Station,  
Villupuram District.

3. The Public Prosecutor,  
Puducherry.



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**G.K.ILANTHIRAIYAN, J.**

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