



CRL.OP(MD) No.6737 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD) No.6737 of 2025

and

CRL.MP(MD) No.4921 and 4922 of 2025

Sahila

... Petitioner

Vs.

N.Sudhakar

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to set aside the returned endorsement made by the learned Principal District and Sessions Judge cum Special Court under Human Rights Ac 1993, Madurai on 04.3.2025 in CrI.M.P. No. (Unnumbered) of 2025 in Special S.C. No. 1 of 2023 and consequently direct the aforesaid learned judge to entertain the said discharge petition and to deal with the same in accordance with law.

For Petitioner : Mr.R.Anand



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ORDER

This petition has been filed by the petitioner to set aside the docket order dated 04.03.2025 passed by the learned Principal District and Sessions Judge cum Special Court under Human Rights Act, 1993, Madurai in Crl.M.P. No. (Unnumbered) of 2025 in Special S.C.No.1 of 2023 and consequently, to direct the Trial Court to take the said discharge petition on file.

2. The learned counsel appearing for the petitioner would submit that the petitioner is the accused in the Special S.C.No.1 of 2023 on the file of the Principal District and Sessions Court cum Special Court under the Human Rights Act, 1993, Madurai and the case is pending against her under the Protection of Human Right Act. While so, she filed an application to discharge the petitioner, but the Sessions Court has not assigned any number and returned the same as there is no penal provision in respect of protection Human Rights Act. Further in respect of charges relating to I.P.C. offences the Hon'ble High Court dismissed the criminal revision already preferred by the petitioner/A1. Hence, this petition is not maintainable. In fact, already a discharge petition was filed before the



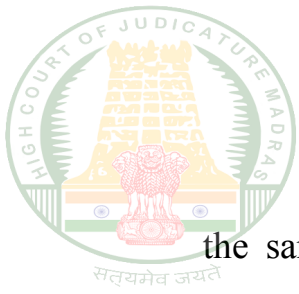
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Judicial Magistrate No.IV, Madurai in Cr.M.P.No.3946 of 2021 and the

same was dismissed through an order dated 23.11.2021. Against which, the CrI.R.C.(MD). No.928 of 2021 has been filed before this Court and said CrI.R.C. was also dismissed through an order dated 14.11.2022 as the charges are not framed so far. So the revision petitioner cannot argue that because of the above said proceedings he has been seriously prejudiced and neither on the main ground that are mentioned in the revision or in the additional ground, the revision is maintainable. Already this Court directed the Trial Court to undertake the committal process as per the procedure. After committal procedures, he approached the Session Court, but the Sessions Court failed to consider that earlier before the Judicial Magistrate Court filed a petition and the High Court has not passed the order by dismissing the revision on that ground.

3. This Court perused the records.

4. The petitioner has filed a petition for discharge under Section 227 of Criminal Procedure Code for the offences under Sections 294(b), 323, 324, 448, 506(ii) of IPC read with Sections 2(D) and 2(E) of the Protection of Human Rights Act, 1993 and the Trial Court has returned



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the same on 27.09.2024 and thereafter on 04.03.2025 and the same is

extracted as follows:

“27.09.2024

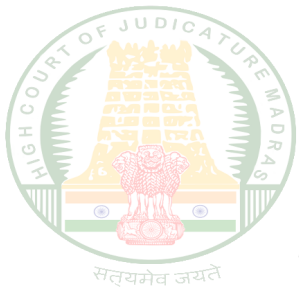
Already discharge petition filed before the Honourable Madurai Bench of Madras High Court in Crl.R.C.(MD) No. 928 of 2021 and the same was dismissed on 14.11.2022. Hence how this petition is maintainable. Hence returned.

04.03.2025

Heard. There is no penal provision in respect of protection of Human Rights Act. Further in respect of charges relating to I.P.C. offences the Honourable High Court dismissed the Original Revision already preferred by the petitioner/A1. Hence, this petition is not maintainable to be stated.”

5. The Trial Court ought to have passed order after assigning number to the petition and hearing both the parties. But without doing the same returned the petition on the ground that already discharge application was filed and this Court in Crl.R.P.(MD) No.928 of 2021 through an order dated 14.11.2022 has passed the following order:

14. So it appears that the charges are not framed so far. So the revision petitioner cannot argue that because of



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the above said proceedings he has been seriously prejudiced. So I am of the considered view that neither on the main ground that are mentioned in the ground of revision or in the additional ground, the revision is maintainable. So accordingly, this revision got to be dismissed of course, by directing the trial Court to undertake the committal process as per the procedure and complete the same within a month from the date of receipt of a copy of this order.”

6. On a careful perusal of the order passed by this Court in CrI.R.P. (MD) No.928 of 2021 dated 14.11.2022, before framing charges, the petitioner earlier approached the Magistrate Court for discharge and the same was dismissed. Against which Criminal Revision Petition was filed and this Court passed the said order. The Magistrate has no jurisdiction to entertain the discharge petition and this Court also directed the learned Magistrate to commit the proceedings and now the case is pending before the Special Court after committal.

7. Therefore, the Trial Court ought to have numbered the petition. Earlier order passed by this Court no way curtail the rights of the petitioner to file petition to discharge because the earlier petition was filed



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before the committal court which has no jurisdiction and now filed the discharge petition before the Special Court. Therefore, the return order passed by the Trial Court is liable to be set aside. Accordingly, this Court directs the Principal District and Sessions Court cum Special Court under the Human Rights Act, 1993, Madurai to take the petition on file and dispose of the same on merits in accordance with law.

8. With the above said observation and direction, this criminal original petition is disposed of. Consequently, connected criminal miscellaneous petitions are closed.

15.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No

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Note : Registry is directed to return the original impugned discharge petition to the learned counsel for the petitioner on proper acknowledgement.

To

1. The Principal District and Sessions Court cum
Special Court under the Human Rights Act, 1993, Madurai.



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P.DHANABAL, J.

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