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Crl.O.P.No.32353 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2026

CORAM:

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

Crl.O.P.No.32353 of 2022
and Crl.M.P.Nos.19979 & 19980 of 2022

Ashok Kumar
424, Sundapalayam Road,
Kumarasamy Colony,
Lawley Road (Post)
Coimbatore.

..Petitioner(s)

Vs

1. The State Inspector Of Police
Peelamedu Police Station,
Coimbatore.
Crime No.1054/2017.
2. Ayyasamy
1/18, Jaya Nagar,
2nd Street, Vadavalli,
Coimbatore.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records of the proceedings in C.C.No.349 of 2021 on the file of the Judicial Magistrate-II, Coimbatore and to quash the same.

For Petitioner(s): Mr. S.Senthilvel

For Respondent(s): Mr.A.Gopinath
Government Advocate (Crl.Side) for R1
No appearance for R2



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.349 of 2021, on the file of the learned Judicial Magistrate-II, Coimbatore, thereby taken cognizance for the offences punishable under Sections 323, 506(i) of IPC and Section 75(1)(c) of the City Police Act. 1888, as against this petitioner.

2. The case of the prosecution is that on 29.07.2017 at about 6 p.m., when the defacto complainant/second respondent was standing in front of his office, the petitioner came and questioned whereabouts his son and abused him with filthy languages. The petitioner also pulled down the defacto complainant and kicked in his stomach and in his back. When the defacto complainant raised huge cry, P.W.4 came and rescue him. However the petitioner escaped from the spot. Thereafter, P.W.4 took the defacto complainant to the hospital for treatment and lodged complaint. On receipt of the complaint, the first respondent registered the FIR and after completion of investigation, they filed final report and the same has been taken cognizance by the trial Court in C.C.No.349 of 2021 for the offences punishable under Sections 323, 506(i) of IPC and Section 75(1)(c) of the City Police Act, 1888. To quash the said proceeding, the petitioner filed the present petition.

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3. The learned counsel appearing for the petitioner submits that there is a money dispute between the second respondent and the petitioner. Now it has been given criminal colour as if the said alleged occurrence was taken place. Even according to the Doctor, the injury sustained by the second respondent is simple in nature. Therefore, the offence under Section 323 of IPC, does not attract as against the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that after completion of investigation, they filed final report and the same has been taken cognizance for the offences punishable under Sections 323, 506(i) of IPC and Section 75(1)(c) of the City Police Act, 1888. He further submitted that all the grounds raised by the petitioner can be considered only during the trial.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On the perusal of the records, it is revealed that the second respondent is aged about 72 years at the time of alleged occurrence. He



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specifically stated that accused assaulted the second respondent by his hands and legs. He also scolded him with filthy language and abused him. Though the Doctor opined that the injury sustained by the second respondent is simple in nature, the offence under Section 323 of IPC is clearly attracted as against the petitioner.

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., (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.

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**

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Vs. Arvind Khanna, (CrI.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.

9. The Hon'ble Supreme Court of India in another judgment dated ***02.12.2019*** passed in ***CrI.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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10. 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.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.349 of 2021, on the file of the learned Judicial Magistrate-II, Coimbatore. 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 three months from the date of receipt of copy of this Order.

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

02.03.2026

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



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To

1. The Judicial Magistrate-II,
Coimbatore.
2. The State Inspector Of Police
Peelamedu Police Station,
Coimbatore.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

rts

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