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CrI.O.P.No.29223 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2026

CORAM:

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

CrI.O.P.No.29223 of 2022 and
CrI.MP.No.17875 of 2022

Anbalagan

... Petitioner

Vs.

1.THE State Rep. By
INSPECTOR OF POLICE,
Pennagaram Police Station,
Dharmapuri District 636 810
(crime No.503 of 2021)

2.PERIYASAMY

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C.
praying to call for the records pertaining to the proceedings in PRC No.15
of 2022 on the file of the Judicial Magistrate, Pennagaram, on the file of
the Respondent Police and to quash the same.

For Petitioner : Mr.S.Bharathi Raja
for M/s.Nathan and Associates

For Respondents
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)



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ORDER

This criminal original petition has been filed praying to quash the proceedings in PRC No.15 of 2022 on the file of the Judicial Magistrate, Pennagaram

2. The case of the prosecution is that A1 is a road contractor and doing quarry business in the name of Arun Blue Metal and Jayam Agencies. The accused A1 is the owner of the above said company and he came to know about that for the past 1 ½ years, said company workers had stolen the company's fuel (diesel) from the crusher machine and sold the same to the local Tractor and JCB owners. Due to that, the accused A1 got ragged on the sellers, who sold the company's fuel (diesel) and got angry on the witnesses Muthuvel and Suresh, those who purchased the diesel illegally from the above said quarry without knowledge of the accused A1. So that, the accused A1 to A7 joined together and discussed about the unlawfully purchased diesel from the above said quarry and then, they decided to kidnap the witnesses Muthuvel and Suresh for ransom with intention to collect the diesel amount from them. On 17.11.2021 at about 10.00 AM, when the accused A1 to A6 joined together at the above said quarry office and A1 to A7 have hatched into a criminal conspiracy to kidnap the witnesses Suresh and Muthuvel for



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ransom with intention of committing of extortion from the witnesses

Muthuvel and Suresh and in pursuance of the above said criminal conspiracy held between them for committing extortion of money from the witnesses Muthuvel and Suresh and thereby, the accused A1 to A7 had committed the offence punishable under section 120(B) IPC each. In the course of the same transaction, on 17.11.2021 at about 10.00 AM, in front of the witness Periyasamy's house located at Jelmarampatti Village, within the jurisdiction of Pennagaram P.S limits, when the accused A1 to A6 assembled and joined together in pursuance of criminal conspiracy to kidnap the witnesses Muthuvel and Suresh for ransom with intention of committing extortion from the witnesses Muthuvel and Suresh and were proceeding in a TATA Scorpio car bearing Registration number TN 65 AY 7080 from Thallapallam to witness Periyasamy's house and then, in front of above said place, the accused A1 to A6 were member of the unlawful assembly and were armed with deadly weapons namely wooden log, iron pipe for kidnapping for ransom and likely to cause death to the witnesses Muthuvel and Suresh and thereby the accused A1 to A6 had committed the offence punishable under section 147, 148 IPC each. In the course of the same transaction, at the same place and time, when the accused A1 instigated the accused A2 to A6 and abused the witnesses Muthuvel with filthy words and then, the accused A1 voluntarily assaulted the witness

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Muthuvel with wooden log on the head, shoulders, neck and back side of the body repeatedly. Simultaneously, the accused A2, A3 joined together and assaulted the witness Muthuvel with iron pipe on the back side of the body, hands repeatedly and then, the accused A4, A6 joined together and assaulted the witness Muthuvel on hands and thereby sustained injuries. Simultaneously, the accused A1 instigated the accused A2 to A6 and voluntarily assaulted the witness Suresh with wooden log on the back side of the body and thereby sustained injuries and wrongfully restrained the witness Suresh, Muthuvel from proceeding further into any direction and with intention of kidnapping the witness Suresh and Muthuvel for ransom and they also put them inside the above said car and kidnapped the witnesses Muthuvel and Suresh to the Arun Blue Metal company which is located at Pethampatti Village, where A7 joined together with common object along with the accused A1 to A6 and voluntarily assaulted the witnesses Muthuvel and Suresh, thereby A1 committed offence punishable under section 294(b) IPC (2 counts), and the accused A1 to A6 had committed the offence punishable under section 341 IPC each, while all the accused A1 to A7 had committed the offence punishable under sections 364-A, 365, 323, 324, 342, 330, 348, 346, 387 IPC each. In the course of the same transaction, at the same place and time, when the accused A1 went to Arun Blue Metal company, which is

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located at Pethampatti Village and in front of the above said company gate, the accused got down from the above said Car and had committed the criminal Intimidation by threatening the witnesses and thereby, the accused A1 had committed the offence punishable under section 506(i) IPC.

3. The learned counsel appearing for the petitioner would submit that the first respondent without even following the principles laid down in the case of ***D.K.Basu Vs. State of West Bengal***, conducted investigation and filed final report. There is absolutely no prima facie case made out against the petitioner to attract any of the charges under Sections 147, 148, 294(b), 323, 324, 341, 342, 364A, 365, 330, 348, 346, 387, 506(i) & 120B of IPC.

4. On perusal of the records, it is revealed that there are specific allegations against the accused persons in order to attract the charges under Sections 147, 148, 294(b), 323, 324, 341, 342, 364A, 365, 330, 348, 346, 387, 506(i) & 120B of IPC.

5. The Hon'ble Supreme Court of India in the judgment reported in ***2019 (4) SCC 351*** in the case of ***Devendra Prasad Singh Vs.***



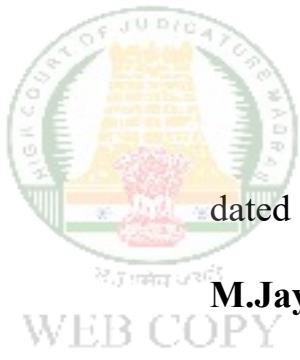
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State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019) while

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 inconsistent statement under Section 161 of Cr.P.C.

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

7. The Hon'ble Supreme Court of India in another judgment



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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.

8. 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.

9. Further, the present case has been committed to Principal



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District and Sessions Court, Dharmapuri and the same has been taken cognizance in SC.No.135 of 2022. It is unfortunate to state that this criminal original petition is pending without any interim order. Even then, the trial court did not proceed with the trial. Therefore, the trial court is directed to complete the trial within a period of six months from the date of receipt of this order.

10. With the above direction, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

02.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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2.THE State Rep. By
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Dharmapuri District 636 810



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