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Crl.O.P.No.17808 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2026

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.17808 of 2025

And

Crl.M.P.Nos.11496 and 11497 of 2025

B.Prabhakaran
S/o.P.Balakrishnan,
28 D, Barathi Park Road No.2,
Coimbatore – 641 043.

... Petitioner

Vs.

The State rep by Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.

... Respondent

Prayer:

Petition filed under Section 482 of Cr.PC/528 of BNSS seeking to call for the records pertaining to the proceedings in Spl.C.C.No.5 of 2023, on the file of Special Judge, Special Court for Cases under Prevention of Corruption Act.

For Petitioner : Mr.G.Jaisivaramaraj

For Respondent : Mr.R.Ganesh Kumar
Counsel for Government of Tamil Nadu
(Criminal Side)
High Court of Madras



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ORDER

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This petition has been filed to quash the proceedings in Spl.C.C.No.5 of 2023, on the file of Special Judge, Special Court for Cases under Prevention of Corruption Act.

2. There are totally six accused in the case in which the petitioner is arrayed as the second accused. The case of the prosecution is that when the petitioner was serving as Executive Engineer/ Assistant Commissioner i/c (Central Zone), Coimbatore Corporation, Coimbatore from 01.01.2012 to 25.06.2013, A3 to A6 have applied for building plan approval on 18.11.2011 through online for the construction of residential building in the land comprised in T.S.No.1212 of Gopalapuram 3rd Street, Coimbatore, to an extent of 3993 sq.ft., with requisite fees. After scrutiny of documents and after having completed spot inspection, site measurements and site vacancy by the Assistant Executive Engineer and on the recommendation of Town Planning Officer, the Commissioner of Coimbatore Corporation had approved the building plan on 05.12.2011 and issued building license. Once again, A3 to A6 submitted another application for building license plan approval on 27.02.2012 for construction of



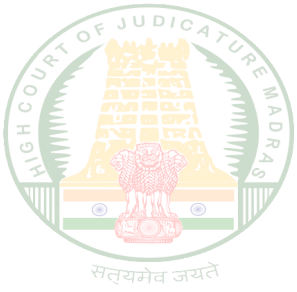
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residential building in the land comprised in T.S.No.1216/1 part at Gopalapuram 1st Street, Coimbatore, to an extent of 3996 sq.ft., with requisite fees. A2 verified the title and site measurements and vacancy and sent the same to the Town Planning Officer and the Commissioner, Coimbatore Corporation had approved the building licence on 14.03.2012. Once again, A3 to A6 submitted another application for building license plan approval for the construction of residential building in the land comprised in T.S.No.1216/1, Ward 1A, Block-20 at Gopalapuram 1st Street, Coimbatore, to an extent of 3966 sq.ft., with requisite fees. A2 verified the title and site measurements and vacancy and sent the same to the Town Planning Officer and the Commissioner, Coimbatore Corporation had approved the building licence on 19.07.2012. After issuance of approval, A3 to A6 violated the building plan approval and constructed commercial building in the aforesaid site in the name of Balaji Complex consisting of 103 rooms instead of constructing residential building. Thereafter, on 26.10.2012, A2 issued deviation notice in connection with the three approvals to A3 to A6 and even thereafter, A3 to A6 did not stop the construction of the building and therefore on 14.05.2013, lock and seal notice was issued to A3 to A6. Thus A3 to A6 violated the provisions of Tamil Nadu Town and Country Planning Act. A2 failed to inspect the



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site stage by stage till 03.10.2012, when petition was received from Samugha Vizhipunarvu Iyakkam under the Right to Information Act and after receipt of the said petition, A1 instructed A2 to visit the place and to take necessary steps, pursuant to which, A2 conducted enquiry and found serious violation have been made by A3 to A6 in the building plan and he prepared a note, dated 10.10.2012, by mentioning the minor violations for issuing notices under Section 282(1)(2) and 296(1) & (2) of the Coimbatore Corporation Act, 1981 and the same was approved by A1 on 26.10.2012 and finally A2 prepared a deviation notice for name sake and sent notice under Section 296(2) to stop the work and sent the report containing filmsy deviation. A1 and A2 permitted A3 to A6 to continue the construction, thereby A3 to A6 constructed the first building to an extent of 30279 sq.ft., second and third buildings to an extent of 24,146 sq.ft. That apart, A3 to A6 sold out 37 rooms and rented out 10 rooms in the third building to the Advocates. A1 and A2 abused their official position and violated the Coimbatore City Municipal Corporation Act, 1981. They also avoided to take remedial actions, thereby violated the Tamil Nadu Town and Country Planning Act, 1971. They did not take any steps for demolition of the illegal construction.



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3.The learned counsel appearing for the petitioner submitted that A1 already filed petition in Crl.O.P.No.8714 of 2024 seeking to quash the proceedings in Spl.C.C.No.5 of 2023 and the said petition was allowed by order dated 28.06.2024. The petitioner is also standing in the same footage and as such the petitioner is entitled for the same benefit. He further submits that even according to the case of prosecution, the petitioner failed to take appropriate action and there is no specific allegation for illegal gratification. No one has spoken about the role played by the petitioner to attract the offence under Section 13(2) r/w.13(1)(d) of PC Act. He further submits there is no allegation against the petitioner that the petitioner has obtained any valuable thing or pecuniary advantage either for himself or for other persons by abusing his position as a public servant. It is not the case of the prosecution that the petitioner had obtained any valuable thing or pecuniary advantage for doing favour to other accused. Therefore, no offence is made out against the petitioner.

4.On the submissions made by the learned Counsel for Government of Tamil Nadu (Criminal Side) reveal that inorder to attract under Section 13(2) r/w.13(1)(d) of PC Act, there are statements and materials very much available to proceed as against



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the petitioner. Though the entire proceedings as against A1 was quashed, the petitioner completely stands in different footing.

Though specific instruction was given by A1, A2 did not act upon the same and failed to take appropriate action as against A3 to A6. Infact, after inspection, A2 submitted report as if there is minor variation in the construction. The records also reveal that A3 to A6 have put up huge commercial complex and violated the planning approval, even then, A2 noted that there is small deviation.

5.That apart, the grounds raised by the petitioner can be considered only before the trial Court by letting evidence. A2 permitted A3 to A6 to continue the constructions. The violations made by A3 to A6 were inspected by the petitioner during inspection of the building, however, failed to initiate remedial action against A3 to A6. He avoided to initiate prosecution against A3 to A6 even after issuance of notice under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, 1971 and permitted A3 to A6 who are builders happens to be building owners to continue their construction during his tenure. Therefore, there are allegations against the petitioner to attract the offence under under Section 13(2) r/w.13(1)(d) of PC Act.



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6.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.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.



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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.

9.Further this Court cannot observe at this stage as to 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 grounds raised by the petitioner to quash the final



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report/charge sheet cannot be entertained.

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10.In view of the above discussion, this Court is not inclined to quash the proceedings in Spl.C.C.No.5 of 2023 on the file of the learned Special Judge, Special Court for Cases under Prevention of Corruption Act. 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 six months from the date of receipt of a copy of this Order.

11.This criminal original petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

13.07.2026

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The Inspector of Police,
Vigilance and Anti-Corruption,
Coimbatore.

2.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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G.K.ILANTHIRAIYAN,J.
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