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Crl.O.P.No.24437 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM:

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

Crl.O.P.No.24437 of 2021 and
Crl.M.P.Nos.13466 & 13467 of 2021

S.P.Sundarapanidan

... Petitioner

-Vs-

1. Union of India,
Through the Inspector,
Railway Protection Force,
Mambalam Railway Protection Force Post,
Chennai Division, Southern Railway,
Mambalam Railway Station,
Chennai-600 033.

2. Manasa Vadlakonda,
Woman Sub-Inspector,
Railway Protection Force,
Mambalam Railway Protection Force Post,
Chennai Division, Southern Railway,
Mambalam Railway Station,
Chennai-600 033.
(Crime No.276 of 2020)

... Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, praying to call for the entire records pertaining to the impugned Final Complaint/Report dated 05.05.2021 filed by the 1st



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Respondent herein against the petitioner in E.R.C.No.1770 of 2021 on the file of the Special Railway Metropolitan Magistrate at Egmore, Chennai, and the impugned occurrences Report dated 01.12.2020, registered by the 2nd Respondent in Crime No.276 of 2020 in the Mambalam RPF Post and quash the same.

For Petitioner : Mr.E.Sudarsanan

For Respondents : Mr.P.T.Ramkumar
Standing Counsel for Railways

ORDER

This criminal original petition has been filed to quash charges made in the final report filed in E.R.C.No.1770 of 2021 on the file of the Special Railway Metropolitan Magistrate at Egmore, Chennai, for the offences under Section 143 (1)(a) of Railways Act 1989.

2. The case of the prosecution is that the 2nd respondent on 01.12.2020 made a search in the petitioner's shop situated at No.28 G, Perumal Kovil Street, Aminjikkarai, Chennai-600 029. During the course of search, they had seized 7 Nos of Live Railway E-Tickets, totally valued Rs.1661/- and 12 Nos. of expired Railway E-Tickets, totally valued Rs.6754/- both amounting a sum



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of Rs.8415/-. The petitioner had confessed himself that he had supplied IRCTC E-Tickets to his customers by using multiple personal user id. He is an authorized agent of IRCTC vide IRCTC agent ID WRLTCPL02408. Due to which, the petitioner was arrested and the 2nd respondent registered a case in Crime No.276 of 2020 for the alleged offence under section 143(1)(a) of Railways Act, 1989 against this petitioner.

3. The learned counsel for the petitioner submitted that the petitioner is running a shop by doing the Business of Air, Rail and Bus Ticketing authorised agency by holding a valid/proper licenses and ancillary to that, making online payments, Xerox and Printout in the Name and style of M/s.S.P.Enterprises at No.28G, Perumal Kovil Street, Aminjikkarai, Chennai-600 029. When the petitioner was doing business, the 2nd respondent in the name of search warrant, without even seizing anything, foisted a false case against the petitioner, as if the petitioner issued illegally booking E-Tickets to the customers by using multiple personal user id. Therefore, the 2nd respondent had come to his office with a predetermined, conclusive and malicious mind on the pretext to register a case against the petitioner. While making search the 2nd respondent never showed any search warrant and also refused to produce



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the same. Therefore, the petitioner did not indulged in commission of offence as alleged by the prosecution.

4. On perusal of the records, the petitioner supplied tickets to his customers by using multiple personal user id and he is an unauthorized agent of IRCTC. Further the grounds raised by the petitioners cannot be considered in this quash petition filed u/s.482 of Cr.P.C.

5. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, wherein it is held as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.



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13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

6. The Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation Vs. Arvind Khanna***, held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”



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7. Further the Hon'ble Supreme Court of India also held in the order

dated **02.12.2019** passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi**

Vs. K.R.Meenakshi & anr, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

8. In view of the above discussion, this Court is not inclined to quash the



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proceedings in E.R.C.No.1770 of 2021 on the file of the Special Railway Metropolitan Magistrate at Egmore, Chennai, and the impugned occurrences Report dated 01.12.2020, registered by the 2nd Respondent. 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 copy of this Order.

9. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petitions are also closed.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order

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G.K.ILANTHIRAIYAN, J.

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To

1. The Special Railway Metropolitan Magistrate at Egmore,
Chennai.
2. The Inspector,
Union of India,
Railway Protection Force,
Mambalam Railway Protection Force Post,
Chennai Division, Southern Railway,
Mambalam Railway Station,
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