



Crl.O.P.No.2083 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.02.2025

CORAM:

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

Crl.O.P.No.2083 of 2023

and

Crl.M.P.Nos.1196 and 1197 of 2023

Ransom Anselm Murray

... Petitioner

Vs.

1. State Rep. by:

The Dy. Superintendent of Police,
Crime Branch CID, Metro-II,
Chennai – 600008.
(CBCID (M) Cr.No.07/2020)

2. Prem Chand Jain

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., 1) to dispense with the personal appearance of the petitioner, in C.C.No.15341 of 2022, on the file of the learned Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai pending disposal of the quash petition; 2) to grant an order of interim stay in C.C.No.15341 of 2022 and its proceedings, on the file of the learned Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai pending disposal of the quash petition; 3) to quash the C.C.No.15341 of 2022, on the file of the learned Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai.



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For Petitioner : Mr.R.Prabhakaran
For Respondents : Mr.K.M.D.Muhilan,
Government Advocate (for R1)

ORDER

This petition has been filed to quash the C.C.No.15341 of 2022, on the file of the learned Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai.

2. The case of the prosecution is that the petitioner has committed a criminal breach of trust and has cheated him without executing the sale deed for the property, 2/24/A, Veteran Lines, Second Street, Pallavaram, Chennai – 600043, wherein the de facto complainant has paid the sale consideration. When asked about the same, the petitioner has threatened the complainant with dire consequences. Hence, he has preferred the present complaint and the petitioner was arrested in connection with the First Information Report.

3. The learned counsel for the petitioner would submit that the petitioner is an Anglo-Indian. He was introduced to the complainant by the petitioner's wife. The complainant decided to sell the property owned by her, situated at 2/24/A, Veteran Lines, Second Street, Pallavaram, Chennai – 600043. Therefore, the petitioner intended to purchase the property and paid the entire



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sale consideration by way of paying cash, directing it to the de facto complainant, who in turn paid the demand draft, directing it to the landlady on behalf of the petitioner. Thereafter, the sale deed was executed in favour of the petitioner and registered vide document No. 1446 of 2010, dated 30.12.2010. Thereafter, the petitioner had executed a power of attorney in favour of the de facto complainant on 30.12.2010, to deal with the property, registered vide Document No. 1446 of 2010. Therefore, the petitioner had purchased the subject property and there is no offence made out against the petitioner.

3.1. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any basis, the first respondent police registered a case in Crime No. 07 of 2020 for the offences under Sections 406, 420, and 506(i) of IPC @ 120-B, 406, 420, and 506(ii) read with Section 34 of IPC as against the petitioner and the same has been taken cognizance in C.C. No. 15341 of 2022 on the file of the Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai. Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the first



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respondent would submit that the trial has been commenced and some of the witnesses have been examined in this case.

5. Heard the learned Counsel appearing on either side and perused the materials placed on record.

6. On a perusal of the documents and the statement recorded from the de-facto complainant, it reveals that the property owned by the landlady, who is an Anglo-Indian, was to be sold only to an Anglo-Indian. Since the de-facto complainant is a non-Anglo-Indian who wanted to purchase the subject property, he did so through the petitioner, who is an Anglo-Indian. Therefore, the entire sale consideration was paid by way of demand draft directly to the landlady by the de-facto complainant. In turn, the landlady had executed the sale deed directly in favour of the petitioner herein. Thereafter, the petitioner had executed a power of attorney in favour of the de-facto complainant. After some period, the petitioner had cancelled the power of attorney and mutated the entire property without transferring the same in favour of the de-facto complainant. Therefore, there are materials to attract the offences under Sections 406, 420, and 506(i) of IPC @ 120-B, 406, 420, and 506(ii) read with Section 34 of IPC.



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7. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.07 of 20201 for the offences under Sections 406, 420 and 506(i) of IPC @ 120-B, 406, 420 and 506(ii) r/w. 34 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.15341 of 2022 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

8. 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.

9. Further, the Hon'ble Supreme Court of India in the judgment reported



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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.

10. 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.

11. Further this Court cannot observe at this stage that the initiation of



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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.

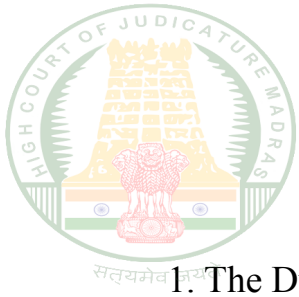
12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.15341 of 2022 on the file of the Metropolitan Magistrate for CCB & CBCID Metro Cases, Egmore, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

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

25.02.2025

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



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1. The Dy. Superintendent of Police,
Crime Branch CID, Metro-II,
Chennai – 600008.

2. The Metropolitan Magistrate for CCB & CBCID
Metro Cases, Egmore, Chennai.

3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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