



WEB COPY



Crl.O.P.No.2422 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2025

CORAM:

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

Crl.O.P.No.2422 of 2023
and Crl.M.P.No.1316 of 2023

Sukumar

.... Petitioner

vs.

State of Tamil Nadu
Rep.by Deputy Superintendent of Police,
District Crime Branch,
Salem District.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records related to the impugned final order in C.C.No.501 of 2021 on the file of the learned Judicial Magistrate No.VI, Salem and quash the same.

For Petitioner : Mr.Karan
For Respondent : Mr.A.Gopinath
Govt.Advocate (Crl.side)



Crl.O.P.No.2422 of 2023

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.501 of 2021 on the file of the Judicial Magistrate No.VI, Salem.

2. The case of the prosecution is that the the petitioner is arrayed as 5th accused. The 1st accused is the adjacent land owner of Mr.Chinnaraj Konar having been residing in his property by way of constructing a house for the past 50 years, 2nd and 3rd accused are the son's of the 1st accused. After the death of the said Mr.Chinnaraj Konar, the accused 1 to 3 had created a forged patta in the name of the 1st accused with respect to the subject matter of the property belongs to Mr.Chinnaraj Konar and further the 1st accused executed a registered Settlement Deed dated 07.05.2006 vide Doc.No.954/2006 on the file of SRO, Valapadi, Salem District to an extent of 2 acres 28 cents. The petitioner was the Sub-Registrar, Valapady, Salem District without verifying the title of the 1st accused, the petitioner registered the settlement deed. Hence, the



Crl.O.P.No.2422 of 2023

WEB COPY

respondent police filed a final report as against the petitioner under Sections 109 & 420 of I.P.C. Aggrieved by the same, the petitioner has come forward with the present criminal original petition.

3. 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 base, the respondent police registered a case in Crime No.20 of 2014 for the offences under Sections .147, 148, 465, 467, 468, 471, 420, 506(ii), 120(B) r/w 109 of I.P.C, as against the petitioner and the same has been taken cognizance in C.C.No.501 of 2021 on the file of the Judicial Magistrate No.VI, Salem. Hence he prayed to quash the same.

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

5. It is seen that on the complaint lodged by the respondent registered a case in Crime No.20 of 2014 for the offences under Sections 147, 148, 465, 467, 468, 471, 420, 506(ii), 120(B) r/w 109 of I.P.C. After



Crl.O.P.No.2422 of 2023

WEB COPY

completion of investigation, the respondent filed final report and the same has been taken cognizance in C.C.No.501 of 2021 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

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(3) 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**



Crl.O.P.No.2422 of 2023

WEB COPY

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.

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



Crl.O.P.No.2422 of 2023

WEB COPY

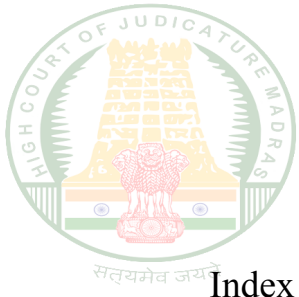
law would arise only at a later stage i.e., during trial.

9. 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.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.501 of 2021 on the file of the learned Judicial Magistrate No.VI, Salem. 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.

11. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petition is also closed.

13.03.2025



Crl.O.P.No.2422 of 2023

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

To

1. Deputy Superintendent of Police,
District Crime Branch,
Salem District.
2. The Judicial Magistrate Court No.VI,
Salem.
3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.

kkd



WEB COPY



Crl.O.P.No.2422 of 2023

Crl.O.P.No.2422 of 2023

13.03.2025