

Crl.OP.No.9158 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.04.2025

CORAM:

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

Crl.O.P.No.9158 of 2025
and
Crl.MP.Nos.6066 and 6069 of 2024

1.Kamaraj
2. Ayyadurai

... Petitioners

Vs.

1. State Rep.by
The Inspector of Police,
District Crime Branch,
Villupuram.
(Cr.No.40 of 2014)

2. Babu @ Santharaman

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS 2024, to call for the entire records in C.C.No.124/2023 on the file of the learned Judicial Magistrate-I, Ulundurpet and quash the same in respect of the petitioner/1st and 2nd accused.

For Petitioner : Mr. M.Vijaya Ragavan

For Respondents : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)
for R1



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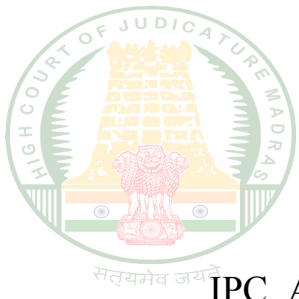
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ORDER

This petition has been filed to quash the proceedings in C.C.No.124 of 2023 on the file of the learned Judicial Magistrate-I, Ulundurpet, Kallakurichi District.

2. The case of the prosecution is that the petitioners have forged the signature of the brother of the second respondent and created lease agreement dated 10.10.2003 in respect of land owned by his father comprised in S.No.153/1A to an extent of of 2 acres and 62 cents situated at Sengurichi Village, Ulundurpet Taluk, Villupuram District. When the second respondent went to the agricultural land, the petitioners did not permit the second respondent to enter into the said land and also threatened him with dire consequence. Hence, the complaint.

3. On the complaint lodged by the second respondent, the first respondent registered an FIR in Cr.No.40 of 2014 for the offences punishable under Sections 120(b), 420, 465, 468, 441, 506(ii) of



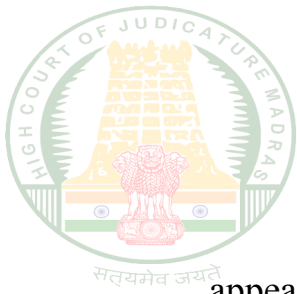
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IPC. After completion of investigation, final report was filed and the same has been taken cognizance by the trial Court in C.C.No.124 of 2023.

4. The learned counsel appearing for the petitioners submits that both the petitioners are arrayed as A1 and A2. The petitioners had lease deed from the brother of the second respondent vide lease deed dated 10.10.2023. The petitioners are in possession and enjoyment of the subject property on payment of Rs.2,00,0000/- as lease amount (as Bokkiyam). After a period of ten years, the present complaint was lodged as if the petitioners have trespassed into subject property and encroached the same.

5. The learned counsel further submits that infact the petitioners also filed a suit for injunction as against the second respondent and his brother in O.S.No.5 of 2024 on the file of the District Munsif Court, Ulundurpet. The said suit was decreed. Aggrieved by the same, the second respondent has preferred an



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appeal in A.S.No.50 of 2024 which is pending on the file of the Appellate Court.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and vehemently opposed to allow the petition.

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

8. A perusal of the records reveals that though the petitioners are in possession and enjoyment of subject property, the specific allegations as against the petitioners is that the petitioners have forged the signature of the second respondent's brother and created a lease deed as if the subject land was leased out in their favour for a sum of Rs.2,00,000/-. Further, the brother of the second respondent is not only the owner of the property, the second respondent being a brother of the second respondent/person who entered into the lease



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agreement is also having $\frac{1}{2}$ share over the property. Therefore, there are materials to attract the offence under Sections 120(b), 420, 465, 468, 441, 506(ii) of IPC as against the petitioners. To quash the said criminal proceeding, the petitioners have filed the present petition.

9. 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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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10. 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. 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,



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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.

12. Further this Court cannot observe at this stage 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 ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

13. In view of the above discussion, this Court finds no grounds to quash the entire proceedings in C.C.No.124 of 2023 on the file of the learned Judicial Magistrate-I, Ulundurpet. The petitioners are at liberty to raise all the grounds before the trial Court.



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Considering the age of the second petitioner, the personal appearance of the second petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall remain present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. 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.

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

02.04.2025

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

Vv

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1. The Judicial Magistrate-I, Ulundurpet
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2. The Inspector of Police,
District Crime Branch,
Villupuram.

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

G.K.ILANTHIRAIYAN, J.



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