



Crl.O.P.No.3436 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

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

Crl.O.P.No.3436 of 2025
and Crl.M.P.No.2264 & 2265 of 2025

Lakith Hussain

... Petitioner

Vs.

1. The State rep. by its
The Inspector of Police,
Central Crime Branch,
Team XVI, Vepery,
Chennai – 600 007.

2. Vivek Surana

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating the charge sheet in C.C.No.356 of 2023 on the file of the learned Judicial Magistrate Court No.I, Poonamallee, quash the same as against this petitioner.

For Petitioner : Mr.S.Senthilnathan

For Respondents

For R1 : Mr.K.M.D.Muhilan
Government Advocate (Crl. Side)



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.356 of 2023, pending on the file of the learned Judicial Magistrate Court No.I, Poonamallee, as against the petitioner.

2. 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 first respondent police registered a case in Crime No.39 of 2022 for the offences under Sections 465, 467, 468, 471, 448 r/w120 & 109 of IPC, as against the petitioner and the same has been taken cognizance in C.C.No.356 of 2023 on the file of the learned Judicial Magistrate Court No.I, Poonamallee. Hence he prayed to quash the same.

3. On instruction, the learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the trial has been commenced and some of the witnesses have been examined in this case.

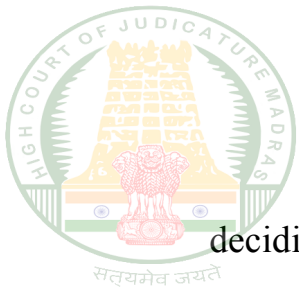


4. Heard the learned Counsel appearing on either side and

perused the materials placed on record.

5. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.39 of 2022 for the offences under Sections 465, 467, 468, 471, 448 r/w120 & 109 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.356 of 2023, by the trial Court and the trial has already been commenced. Therefore, after commencement of trial, the question of quashment of entire proceeding does not arise.

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



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deciding the issues on the merits or/and by the Appellate Court while

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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.

7. Fruther, 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.

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



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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 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 charge sheet cannot be entertained to quash the entire proceedings.

10. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.356 of 2023, pending on the file of the learned Judicial Magistrate Court No.I, Poonamallee. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial as expeditiously as possible.



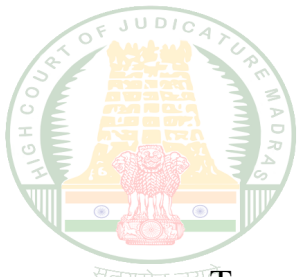
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WEB COPY 11. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

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

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To
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1. The Judicial Magistrate Court No.I,
Poonamallee.

2. The Inspector of Police,
Central Crime Branch,
Team XVI, Vepery,
Chennai – 600 007.

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



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