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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19-03-2025

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THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP NO. 7308 of 2023

AND

CRL MP Nos.4661, 4662 of 2023

1.Palanisamy

2.Murugesan

Petitioner(s)

Vs

1.The State rep.by

Inspector Of Police, Samalpatti Police Station,
Krishnagiri District.

2.Ragavan

Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.PC, to call for the records culminating CC No.177 of 2022, pending on the file of the learned Judicial Magistrate, Uthanagarai, Krishnagiri District and to quash the same.

For Petitioner(s):

M/s.K.Thiruvengadam

For Respondent(s):

A.Gopinath Government Advocate Criminal Side for R1



ORDER

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This Criminal Original Petition is filed to call for the records culminating CC No.177 of 2022, pending on the file of the learned Judicial Magistrate, Uthanagarai, Krishnagiri District and to quash the same.

2.The case of the prosecution is that the de-facto complainant's father namely Duraisamy died leaving seven children as his legal heirs including the de-facto complainant. The eldest son namely Srinivasan died intestate leaving behind his wife namely Unnamalai and his daughters namely Rukmani, Saraswathi. The father of the de-facto complainant allotted lands to his surviving legal heirs and retained a few portions of a land situated in 66/2B2 at Padavanur Village, Uthagarai Taluk, Krishnagiri District for his livelihood. It is alleged in the complaint that the Patta for the above said portion of the land was obtained in the name of Rukmani. Based on the above revenue records, the land was sold to one, Vedyappan. Therefore, a civil suit was instituted in O.S. No. 194 of 2020 on the file of Uthangarai Sub-Court. During the pendency of the suit, the said Vedyappan again sold the land to Palanisamy. In such circumstances, on 19.09.2021, around 12



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P.M, all the accused encroached the disputed piece of land with an illegal intention and removed the plants and trees and threatened the witnesses if they tried to stop them and hence the complaint. The petitioner is the son - in -law of the said Palanisamy. The respondent police conducted the investigation and laid a charge sheet under sections 147, 148, 323, 127, 336 and 506(2) of IPC and the same was taken on file by the Judicial Magistrate of Uthangarai vide C.C. No. 177 of 2022.

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

4.The learned counsel for the petitioner would submit that it is only a civil dispute and a false case has been foisted against the petitioner specifically to drag on the offence.

5.On a perusal of the records revealed that there are certain specific allegations were made as against the petitioner by the second respondent. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.215 of 2021 for the offences under



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Sections 147, 148, 323, 427, 336 & 506(2) of IPC. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance vide C.C.No.177 of 2022 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 of Cr.P.C.

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



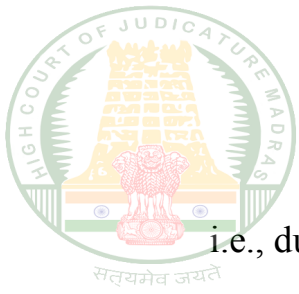
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reported in **2019 (10) SCC 686** in the case of **Central Bureau of**

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 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 law would arise only at a later stage



i.e., during trial.

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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.177 of 2022 on the file of the learned Judicial Magistrate, Uthanagarai, Krishnagiri District. The trial Court is directed to complete the trial within a period of six(6) 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.

19.03.2025

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

To

1. learned Judicial Magistrate,
Uthanagarai, Krishnagiri District.

2. The State rep.by
Inspector Of Police, Samalpatti Police Station,
Krishnagiri District.
(Cr.No.215 Of 2021).

2. The Public Prosecutor,
High Court, Madras.



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G.K. ILANTHIRAIYAN.J.,
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