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Crl.O.P.Nos.6074 and 6080 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.Nos.6074 and 6080 of 2025

and

Crl.M.P.Nos.3888 and 3892 of 2025

S.Lakshmanan ... Petitioner in Crl.O.P.No.6074 of 2025

Florence Venastic ... Petitioner in Crl.O.P.No.6080 of 2025

Vs

State:- Rep. by
Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Chennai – 600 032. ... Respondent in both Crl.O.Ps

Common Prayer:- Criminal Original Petitions are filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.Nos.2182 and 2183 of 2019 on the file of XI Metropolitan Magistrate, Saidapet, Chennai, the charges framed against the petitioners on 22.01.2025 in the above C.C.Nos.2182 and 2183 of 2019.

For Petitioner
in both Crl.O.Ps : Mr.C.D.Vivekanandan
For Respondent : Mr.A.Gopinath,
in both Crl.O.Ps Government Advocate (Crl.Side)



Crl.O.P.Nos.6074 and 6080 of 2025

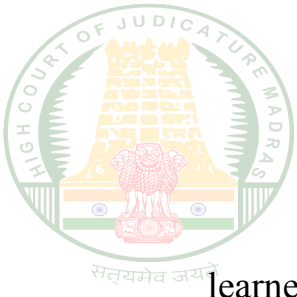
COMMON ORDER

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These petitions have been filed to quash the proceedings in C.C.Nos.2182 and 2183 of 2019 on the file of XI Metropolitan Magistrate, Saidapet, Chennai against the petitioners on 22.01.2025.

2. The case of the prosecution is that the petitioners misappropriated to the tune of Rs.1,95,85,455/- and 1,95,02,190/- respectively while they were working the Senior Inspectors of Co-operative Societies. There are totally three accused and all they had misappropriated the funds.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent and they have not committed any offence as alleged by the prosecution. Without any base, the respondent police registered a case in Crime No.4 of of 2015 for the offences under Sections 409, 406, 477(A) and 420 of IPC, as against the petitioners and the same has been taken cognizance in C.C.Nos.2182 and 2183 of 2019 on the file of the



Crl.O.P.Nos.6074 and 6080 of 2025

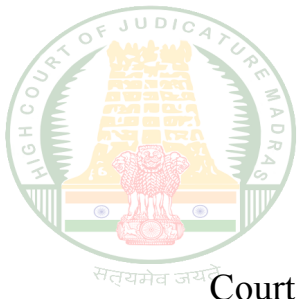
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learned XI Metropolitan Magistrate, Saidapet, Chennai. He further contended that the respondent registered the First Information Report as against the four accused and while filing the final report, deleted the fourth accused from the charge sheet and he has been shown as witness. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the 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. It is seen that on the complaint lodged by the Deputy Registrar (Housing), the respondent registered a case in Crime No.4 of 2015 and for the offences under Sections 409, 406, 477(A) and 420 of IPC. After completion of investigation, the respondent filed final report and the same has been taken cognizance in C.C.Nos.2182 and 2183 of 2019 by the trial



Crl.O.P.Nos.6074 and 6080 of 2025

WEB COPY

Court and it is pending. To quash the said criminal proceedings, the petitioners filed the present petitions.

7. 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.

8. 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.Nos.6074 and 6080 of 2025

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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. 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 consititue 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 consititue the offence alleged. Whether the accused will be able to prove



Crl.O.P.Nos.6074 and 6080 of 2025

WEB COPY

the allegations in a manner known to law would arise only at a later stage i.e., during trial.

10. 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. The contention of the petitioners to quash the final report/charge sheet that while filing the final report, the respondent deleted the name of the fourth accused and he has been shown as witness cannot entertained as a ground to quash the entire proceedings and if at all any material is available as against the fourth accused, he will be implicated as an accused by the Trial Court.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.Nos.2182 and 2183 of 2019 on the file of the XI Metropolitan Magistrate, Saidapet, Chennai. The petitioners are at liberty to raise all the grounds before the trial Court.



CrI.O.P.Nos.6074 and 6080 of 2025

WEB COPY

12. Accordingly, these Criminal Original Petitions stand dismissed. Consequently, connected miscellaneous petitions are also closed.

04.03.2025

Index: Yes/No
Neutral Citation/Yes/No
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To

1. The XI Metropolitan Magistrate, Saidapet, Chennai.
2. The Deputy Superintendent of Police,
Commercial Crime Investigation Wing,
Chennai – 600 032.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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CrI.O.P.Nos.6074 and 6080 of 2025

G.K.ILANTHIRAIYAN, J.

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CrI.O.P.Nos.6074 and 6080 of 2025

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