



Crl.O.P.No.5365 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.5365 of 2023
and Crl.M.P.Nos.3366 & 3368 of 2023

Parameshwara Rao

... Petitioner

Vs.

State Rep by

1. The Assistant Commissioner of Police,
Central Crime Branch,
Forgery Investigation Wing,
Vepary, Chennai – 600 007.

2. Abu bucker

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.219 of 2022 pending trial on the file of Judicial Magistrate No.I, Poonamallee, Thiruvallur District and quash the same.

For Petitioner : Mr. S.Nambirajan

For Respondents

For R1 : Ms. J.R.Archana
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.219 of 2022 on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur, thereby taken cognizance for the offences punishable under Sections 447, 385 & 506(2) of IPC in Crime No.106 of 2019, as against this petitioner.

2. The case of the prosecution is that the defacto complainant is the power of attorney of one Sureshkumar, who owned the property comprised in Suvey No.239/1 in patta No.348 situated at Plot No.3/70, Thiruvallursalai, Ramapuram Village, Maduravoyal Taluk, Thiruvallur District. When the defacto complainant wanted to clean the property, he has found out that the petitioner has illegally trespassed into the property and has made a roof shelter. When the same was questioned by the defacto complainant, the petitioner has abused him with filthy language and also threatened him with dire consequences. Hence the complaint.



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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 first respondent police registered a case in Crime No.106 of 2019 for the offences punishable under Sections 447, 385 & 506(2) of IPC, as against the petitioner and the same has been taken cognizance in C.C.No.219 of 2022 on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) 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 second respondent, the first respondent registered a case in Crime No.106 of 2019



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for the offences under Sections 447, 385 & 506(2) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.219 of 2022 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner has filed the present petition.

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 161 of Cr.P.C.



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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 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.

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 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

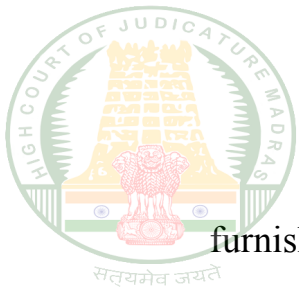


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not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

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 stage. 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.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.219 of 2022 on the file of the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of



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furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The trial Court viz., the learned Judicial Magistrate No.I, Poonamallee, Thiruvallur, is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.

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

10.03.2025

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

To

1. The Judicial Magistrate No.I,
Poonamallee, Thiruvallur

2. The Assistant Commissioner of Police,
Central Crime Branch,
Forgery Investigation Wing,
Vepary, Chennai – 600 007.

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

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