



CrI.O.P.No.8449 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8449 of 2025
and
CrI.M.P.Nos.5545 and 5546 of 2025

1. G.Kalaiselvi
2. G.Anbu
3. Osanna
4. D.Gurumoorthy
5. Suseela Joseph

... Petitioners

Vs.

1. The State represented by
The Inspector of Police,
Land Grabbing Division-II,
25th Team, Veppery, Chennai-7.

2. Lakshmi Bai

... Respondents

PRAYER: This Criminal Original Petition is filed under Section to call for the records in C.C.No.24 of 2024 on the file of the learned Metropolitan Magistrate, CCB/CBCID cases, Egmore, Chennai-8 and quash the same.

For Petitioner : Mr.B.Manimaran

For Respondents : Mr.A.Gopinath,
Government Advocate (CrI.Side)
for R1
: Mr.N.Nagu Sah for R2

ORDER



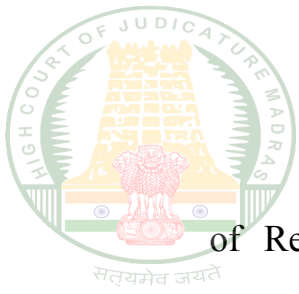
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This petition has been filed to quash the proceedings in C.C.No.24 of 2024 on the file of the learned Metropolitan Magistrate, CCB/CBCID cases, Egmore, Chennai-8, thereby taken cognizance for the offences under Sections 294(b), 341, 420, 427, 447, 448, 465, 468, 471, 506(i) r/w 120(b), 109 of IPC in Crime No.81 of 2023, as against this petitioner.

2. The case of the prosecution is that the first accused/A1 is the relative of the fifth accused/A5. She has created a forged document as if A1's mother has derived title through a registered sale deed vide Document No.156/1969. The said fabricated sale deed was fraudulently inserted and incorporated in the registration records. Further, it is alleged that the said Document No.156/1969 is originally relating to some other third parties and properties. As such based on the second respondent's complaint, the District Registrar, South Chennai has cancelled the said Doc.No.156/1969 vide order dated 24.08.2022. Thereafter, the second respondent has lodged a complaint before the first respondent against the petitioners on 10.04.2023.

3. The learned Counsel appearing for the petitioner would submit that only on the order passed by the District Registrar under Section 77 A



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of Registration Act, the complaint has been lodged as against the petitioner and now final report has been filed. Now, the provision under Section 77 A of the Registration Act has been declared by this Court as unconstitutional. Therefore, the direction issued by the District Registrar cannot be taken into account. Though, this Court has declared that the provision under Section 77 A of the Registration Act as un-constitutional, the District Registrar can very well declare the document as fraudulent and also issue directions to register the complaint against the fraudulent registration of document as contemplated under Registration Act. That apart, the District Registrar can conduct enquiry under Section 68(2) of Registration Act, if the complaint is very much maintainable.

4. Accordingly, the first respondent completed the investigation and filed a final report and the same has been taken cognizance for the offence under Sections 294(b), 420, 427, 447, 448, 465, 471, 506(i) r/w 120(b), 109 of IPC before the learned Metropolitan Magistrate, CCB/CBCID cases, Egmore, Chennai.

5. The learned Government Advocate (Crl. Side) reiterated the prosecution case and submits that the District Registrar, South Chennai has cancelled the said Doc.No.156/1969 vide order dated 24.08.2022.



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

7. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.81 of 2023 for the offences under Sections 294(b), 420, 427, 447, 448, 465, 471, 506(i) r/w 120(b), 109 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.24 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

8. 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., (CrI.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 inconsistent statement under Section 161 of



Cr.P.C.



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9. Further, the Judgement of the Hon'ble Supreme Court of India 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.

10. 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



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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.

11. 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.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.24 of 2024 on the file of the learned Metropolitan Magistrate for CCB & CBCID Cases, Egmore, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the 5th petitioner and the 3rd petitioner being a lady, the personal appearance of the petitioners 3 and 5 is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 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 a copy of this Order.



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13. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

21.03.2025

Vv

To

1. The Metropolitan Magistrate,
CCB/CBCID cases, Egmore, Chennai-8
2. The Inspector of Police,
Land Grabbing Division-II,
25th Team, Veppery, Chennai-7.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

Vv

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