

WEB COPY



Crl. O.P. No. 7003 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl. O.P. No. 7003 of 2024

and

Crl. M.P. Nos. 5130 & 5133 of 2024

R. Vijayakumar

... Petitioner

Vs.

M. Shanmugasundaram

.. Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the case pending on the file of the learned Chief Judicial Magistrate No.I, Coimbatore in C.C. No. 2440 of 2023 and quash the same.

For Petitioner : Mr. A.G. Rajan

For Respondent : Mr. B. Manoharan

ORDER

This Criminal Original Petition has been filed to quash the entire proceedings in C.C. No. 2440 of 2023 on the file of the Chief Judicial Magistrate No.I, Coimbatore.



Crl. O.P. No. 7003 of 2024

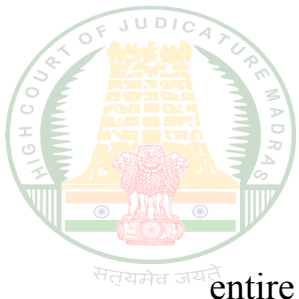
WEB COPY

2. The respondent lodged private complaint as against the petitioner alleging that the respondent's mother signature was forged and filed compromise memo in the suit filed by the petitioner for declaration in O.S. No.2535 of 2000 on the file of District Munsif Court, Coimbatore and obtained decree in respect of the property owned by the respondent's mother. She died on 16.12.2000. Thereafter, on 07.01.2001, her signature was forged and filed vakalat in O.S. No. 2535 of 2000. Thereafter, on 30.01.2001, compromise memo was filed as if, the respondent's mother signed in the compromise and obtained decree on 30.01.2001.

3. Initially the respondent filed police complaint and thereafter, it was recorded as mistake of fact. Thereafter, the respondent has filed a private complaint and the same has been taken cognizance and issued summons to the petitioner.

4. In view of the above, there are specific allegations as against the petitioner to attract the offences under Sections 419, 420, 465 & 466 of IPC.

5. In view of the above, this Court finds no ground to quash the

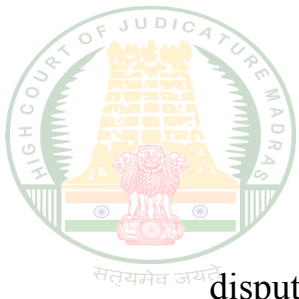


Crl. O.P. No. 7003 of 2024

entire proceedings.
WEB COPY

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 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



Crl. O.P. No. 7003 of 2024

WEB COPY

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



Crl. O.P. No. 7003 of 2024

WEB COPY

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 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.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C. No. 2440 of 2023 on the file of the Chief Judicial Magistrate No.I, Coimbatore. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court is directed to complete the trial within a period of six months from the date of receipt of copy of this Order.



Crl. O.P. No. 7003 of 2024

WEB COPY

11. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

01.04.2025

Index : Yes/No

Neutral citation : Yes/No

AT

To

The Chief Judicial Magistrate No.I, Coimbatore.



WEB COPY



Crl. O.P. No. 7003 of 2024

G.K.ILANTHIRAIYAN, J.

AT

Crl. O.P. No. 7003 of 2024 and
Crl. M.P. Nos. 5130 & 5133 of 2024

01.04.2025