



Crl.O.P.No.6735 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.6735 of 2025
and Crl.M.P.Nos.4295 and 4297 of 2025

Ashik

... Petitioner

Vs

1. State Rep By

The Sub Inspector of Police,
Central Crime Branch,
Edf-II, Team 9A,
Vepery, Chennai.
(X.Cr.No.363 of 2016)

2. Newman

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Crl.P.C/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the case in final report filed by the first Respondent which was taken on file in C.C.No.6202 of 2018 on the file the CCB and CBCID Metropolitan Magistrate, Egmore, Chennai as against the petitioner.

For Petitioner : Mr.V.Viswanathn

For R1 : M/s J.R.Archana
Government Advocate (Crl.side)

ORDER



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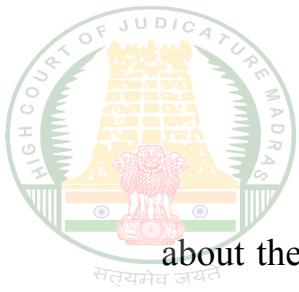
This petition has been filed to quash the proceeding in C.C.No.6202 of 2018 on the file the CCB and CBCID Metropolitan Magistrate, Egmore, Chennai.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials placed on record.

3. The case of the prosecution is that A2 and A3 induced the defacto complainant to invest the money in the first accused company and thereafter, cheated him. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.363 of 2016 for the offences punishable under Sections 406, 420 and 506(1) of IPC. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.6202 of 2018 on the file the CCB and CBCID Metropolitan Magistrate, Egmore, Chennai.

5. The learned counsel for the petitioner would submit that the petitioner is arrayed as A5. Except the statement of LW1, no one had spoken



about the overtact of the petitioner. Even according to LW1, the petitioner was looking after a partnership firm and he is only an employee. He was working for monthly salary. Therefore, no offence is made out as against the petitioner.

6. A perusal records revealed that the petitioner also gave assurance to all the victims and also canvassed the business. Therefore, there is a specific overtact as against the petitioner to attract the offences under Sections 406, 420 and 506(1) of IPC.

7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr.***, as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on



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the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Investigation Vs. Arvind Khanna***, wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most



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minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

9. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **CrI.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained



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in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner are mixed question of facts and it cannot be considered in quash petition under Section 482 Cr.P.C.

10. In view of the above, this Court is not inclined to quash the proceeding in C.C.No.6202 of 2018 on the file the CCB and CBCID Metropolitan Magistrate, Egmore, Chennai. 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 furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The Trial Court is



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directed to complete the Trial in CC.No.6202 of 2018, within a period of six months from the date of receipt of a copy of this order.

10. Accordingly, this Criminal Original Petition is dismissed.

Consequently, connected Miscellaneous petitions are closed.

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Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The CCB and CBCID Metropolitan Magistrate,
Egmore, Chennai.
2. The Sub Inspector of Police,
Central Crime Branch,
Edf-II, Team 9A,
Vepery, Chennai.
3. The Public Prosecutor,
High Court, Madras.

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