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CrI.O.P.No.6714 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.6714 of 2023

G.Samiappan

....

Petitioner

Vs

The State Rep.By
Superintendent of Police,
CID, Pondicherry.

....

Respondent

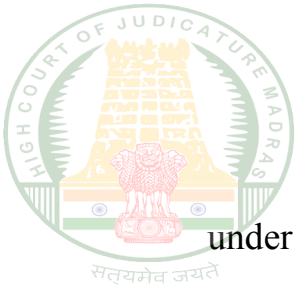
Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.316 of 2001 in Crime No.354 of 1994 on the file of the Respondent Police, which is pending before the Judicial Magistrate Court-II at Pondicherry and directing the Respondent to conduct Expeditious trial, and discharge the petitioner by allowing the present Criminal Original Petition.

For Petitioner : Mr.P.James Victor Rajkumar

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)

ORDER

This Criminal Original Petition has been filed to quash the entire proceedings in C.C.No.316 of 2001 on the file of the Judicial Magistrate No.II, Puducherry, thereby taken cognizance for the offences



CrI.O.P.No.6714 of 2023

under Sections 409, 419, 420, 467, 468, 471, 477(4) of IPC r/w.34 and

511 of IPC.

2. The case of the prosecution is that based on the complaint from One P.Ramanujam, Branch Manager, Central Bank of India, Puducherry, the Sub Inspector of Police, Grand Bazaar Police Station, registered an FIR in Crime No.354 of 1994 for the offences under Section 420 r/w Section 34 of IPC, alleging that the accused persons fraudulently opened fictitious accounts and cheated the bank by way of false telegraphic transfers and issuance of false mail transfers amounting to a sum of Rs.69,20,492/-. Hence, the complaint was lodged.

3. The learned counsel appearing for the petitioner would submit that the petitioner is aged about 69 years and he has been regularly appearing before the Court. However, the trial has been pending from the year 2001. Even then, the respondent failed to co-operate in completing the trial.

4 The learned Public Prosecutor (Puducherry) submitted that



Crl.O.P.No.6714 of 2023

there are totally five accused in which the petitioner is arrayed as A4. He further submitted that the accused persons have been absent before the Trial Court one after another, due to which the Trial Court could not able to complete the trial. He also submitted that the offences committed by the petitioner and the other accused persons are serious in nature.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

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



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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 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 constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or



CrI.O.P.No.6714 of 2023

not and whether the allegations contained in the complaint, even if accepted in entirety, would 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.

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 state. The same is required to be considered at the conclusion of the trial. Therefore, this Court finds no ground to quash the entire proceedings in C.C.No.316 of 2001 on the file of the Judicial Magistrate No.II, Puducherry merely on the ground of delay. The delay has caused due to various reasons and as such on the ground of delay the entire proceedings cannot be quashed.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No. 316 of 2001 on the file of the Judicial Magistrate No.II, Puducherry. 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



CrI.O.P.No.6714 of 2023

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 directed to conduct the trial on a day to day basis and complete the same within a period of three months from the date of receipt of copy of this Order.

11. Accordingly, the Criminal Original Petition stands dismissed.

05.02.2025

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Index: Yes/No
Internet: Yes/No

To

1. The Judicial Magistrate No.II,
Puducherry.
2. The Superintendent of Police,
CID, Pondicherry.
3. The Public Prosecutor,
Puducherry.

G.K.ILANTHIRAIYAN,J.

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WEB COPY



CrI.O.P.No.6714 of 2023

CrI.O.P.No.6714 of 2023

05.02.2025