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Crl.O.P.Nos.8059 and 8156 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.O.P.Nos.8059 and 8156 of 2025

and

Crl.M.P.Nos.5217 and 5316 of 2025

1. M.R.Chendilnathan
2. Pandian

... Petitioners
in both Crl.OPs.

Vs.

1. The State by
Inspector of Police,
Central Crime Branch,
Team – XVI A, Veppery,
Chennai – 600 007.

... Respondents
in both Crl.OPs

2. A.K.M.Samsunihar

... Respondents
in Crl.OP.No.8059 of 2025

[R2 impleaded as per order dated
24.03.2025 in Crl.M.P.No.5805 of 2025
in Crl.O.P.No.8059 of 2025]

Common Prayer: Criminal Original Petitions are filed under Section 528 of BNSS, 2023, to set aside the dismissal of Crl.R.C.Nos.49 and 48 of 2024 dated 26.02.2025 passed by the learned Principal Sessions Judge, Chennai confirming the dismissal of discharge petitions in Crl.M.P.Nos.42550 and 42549 of 2023 in C.C.No.5824 of 2023 on the



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file of the learned Metropolitan Magistrate for Exclusive Trial of CCB and CBCID Cases, Egmore, Chennai and allow the same by discharging the petitioners.

For Petitioners : Mr.S.Jaganathan

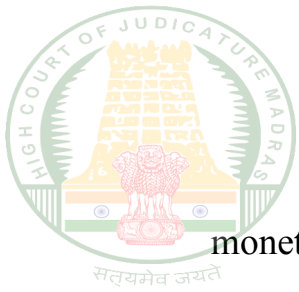
For Respondents : S.Vinoth Kumar
Government Advocate (Crl.Side)
for R1

Mr.A.Thirumaran for R2

COMMON ORDER

The Criminal Original Petitions are filed to set aside the orders dated 26.02.2025 passed in Crl.R.C.Nos.49 and 48 of 2024 by the learned Principal Sessions Judge, Chennai confirming the orders in Crl.M.P.Nos.42550 and 42549 of 2023 in C.C.No.5824 of 2023 on the file of the learned Metropolitan Magistrate for Exclusive Trial of CCB and CBCID Cases, Egmore, Chennai.

2. The case of the prosecution as per the *de-facto* complainant is that accused 1 to 7 with an intention to grab the land belongs to the *de-facto* complainant, conspired together and in furtherance of said conspiracy created the false and forged documents and thereby, obtained



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monetary gain, resulting in registration of a case against the accused persons for the offences punishable under Sections 120-B, 420, 423, 463, 465, 466, 468, 471, 474 read with 471 of IPC and Section 83(D) of Registration Act. Subsequently, final report was filed before the learned Special Metropolitan Magistrate, Land Grabbing Cases in C.C.No.5824 of 2023.

3. The first petitioner, who is arrayed as A5 in the above case is the *bona fide* purchaser of the subject property for valid consideration and the second petitioner, who is arrayed as A6, is a mere witness to the sale deed executed by A4 to A5 and they have been falsely implicated in the above case. The first petitioner purchased the said property from A4. The first petitioner is total stranger to A1 to A3 and hence, the petitioners have no role in the alleged conspiracy. There is no specific overt act alleged as against the petitioners/A5 and A6 and hence, they filed a petition in Crl.M.P.No.42550 of 2023 seeking to discharge them from the case in C.C.No.5824 of 2023 and also filed the petition in Crl.M.P.No.42449 of 2023 seeking permission for dispensing with their personal appearance. However, the trial Court without considering the



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grounds raised by the petitioners, simply dismissed both the petitions on 15.04.2024. Assailing the said orders, the petitioners filed CrI.R.C.Nos.49 and 48 of 2024 on the file of the Principal Sessions Court, Chennai. The learned Sessions Judge *vide* order dated 26.02.2025, dismissed both the revision petitions. Challenging the same, the petitioners have come forward with the present petitions.

3. Heard both sides and perused the materials available on record.

4. Section 528 of BNSS, 2023 is only to prevent the abuse of process of law not otherwise. At the time of passing order in the discharge petition, the Court has to see only the materials produced by the investigating agency and not the defence taken by the accused. When the Court finds that there are *prima facie* materials to proceed with the case, the accused has to face trial. It is the duty of the prosecution to prove the charges by examining witnesses during trial.

5. This Court, after perusing the order of the both the Courts below, finds that *prima facie* there are materials to proceed with the case



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against the petitioners/A5 and A6. This Court does not find any abuse of process of law and there is no perversity in the orders of the both the Courts below. Therefore, this Court is not inclined to set aside the orders of the Courts below by invoking Section 528 BNSS, 2023. However, if any one of the accused is died, on production of the death certificate, the learned Magistrate shall pass suitable orders.

6. With the above observations, these Criminal Original Petitions are dismissed. Consequently, connected miscellaneous petitions are closed.

23.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Principal Sessions Judge,
Chennai.
2. The Metropolitan Magistrate for Exclusive
Trial of CCB and CBCID Cases, Egmore,
Chennai.
3. The Inspector of Police,
Central Crime Branch,
Team – XVI A, Veppery,
Chennai – 600 007.
4. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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