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Crl.O.P.No. 10289 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

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

Crl.O.P.No.10289 of 2025 and
Crl.M.P.Nos.6868 and 6872 of 2025

P.J.Rajashekar

... Petitioner

Vs.

1.The State

Rep. By the Inspector of Police,
District Crime Branch, Vellore
District 632 004.

2.Sudhakara Rao

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in C.C.No.245 of 2023 on the file of the learned Judicial Magistrate No.2, Vellore and quash the same.

For Petitioner : Mr.Naveen Kumar Murthy for
M/S S.Varsha

For R1 : Mr.R.Vinothraja,
Government Advocate (crl.side)

ORDER

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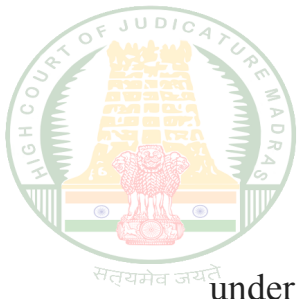


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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.245 of 2023 on the file of the learned Judicial Magistrate No.2, Vellore.

2. The case of the prosecution, as per FIR, is that the accused one P.Aravindan, proprietor of M/s Shakti Bricks, along with others, approached the second respondent's bank on 11.02.2016 for a business loan of Rs. 15,00,000/-. The accused submitted forged and fabricated documents, including a fake sale deed (Doc. No. 13995/2013), a fabricated building approval plan (No. 3492/2013), and a forged Encumbrance Certificate (Doc. No. 504/2016), along with a false Axis Bank account statement and a fake Memorandum of Deposit of Title Deeds (Doc. No. 1053/2016), to falsely represent the ownership of a collateral property. Believing the documents to be genuine, the bank sanctioned and disbursed the loan. Later, it was revealed that all the documents were counterfeit and had not been registered or issued by the concerned authorities. Based on this, a complaint was filed, and a case was registered in Crime No. 187 of 2018 for the offences punishable



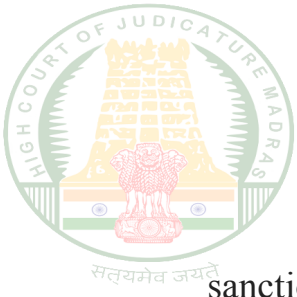
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under Sections 468, 471, and 420 of IPC. After completion of investigation, the first respondent filed the final report before the learned Judicial Magistrate No.2, Vellore and the same was taken cognizance in C.C.No.245 of 2023.

3. The learned counsel for the petitioner submitted that the Petitioner, who is arrayed as A4, was the Branch Manager of Andhra Bank, Bagayam Branch, at the time of sanctioning the loan to A1. The Petitioner has no role in the alleged fabrication of documents. The loan was sanctioned in the normal course of duty after obtaining a legal opinion from the Bank's panel advocate and valuation from the approved engineer. The documents submitted by A1 appeared genuine on record, and there is no material to show any collusion or dishonest intention on the part of the Petitioner. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (crl.side) submitted that the investigation reveals that forged documents were submitted to the bank to fraudulently obtain a loan. The petitioner, as Branch Manager,



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sanctioned the loan without proper verification. His role requires deeper scrutiny during trial, and thus, discharge is not warranted at this stage

5. Heard both sides and perused the materials placed before this Court.

6. On perusal of the records and submissions made by both sides, it appears that the petitioner, being the Branch Manager at the time of loan sanction, acted based on documents and reports provided through official channels, including legal and technical opinions. However, the FIR and final report disclose allegations of forgery involving documents relied upon in the sanctioning process. Whether the petitioner had any knowledge of the forged nature of the documents or acted negligently are matters that require appreciation of evidence during trial. At this stage, this Court is not inclined to exercise its inherent powers under Section 528 of BNSS to quash the proceedings, as the case involves disputed questions of fact.

7. The Hon'ble Supreme Court of India, in the judgment reported



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in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh vs. State of***

Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019),

while dealing with a petition to quash the entire criminal proceedings, held that the High Courts have no jurisdiction to appreciate the statements of witnesses and record a finding that there were inconsistencies in their statements, and therefore, no *prima facie* case was made out against the accused. Such an exercise can be done only by the Trial Court while deciding the case on merits or by the Appellate Court while deciding the appeal arising out of the final order. The charge sheet having been laid on the basis of inconsistent statements under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is not a ground for quashing at the pre-trial stage.

8. 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 (Criminal Appeal No.1572 of 2019, dated 17.10.2019)***, held that the High Courts cannot record findings on disputed facts. The defence of the accused is to be tested after



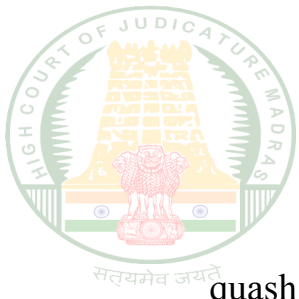
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appreciation of evidence by the Trial Court during trial. Therefore, this Court has no power to consider disputed facts under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. The Hon'ble Supreme Court of India, in another judgment ***dated 02.12.2019*** passed in ***Criminal Appeal No.1817 of 2019*** in the case of ***M. Jayanthi vs. K.R. Meenakshi & Anr.,*** held that while considering a petition for quashing a complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should examine is whether the allegations in the complaint form the basis of the ingredients constituting the offences complained of. Further, the Court can also examine whether the preconditions required for taking cognizance have been complied with, and whether the allegations contained in the complaint, even if accepted in their entirety, would constitute the offence alleged. Whether the accused will be able to disprove the allegations is a matter to be determined during trial.

10. In view of the above discussion, this Court is not inclined to



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quash the proceedings in C.C.No.245 of 2023 on the file of the learned Judicial Magistrate No.2, Vellore. 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 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 complete the trial within a period of six months from the date of receipt of copy of this Order.

11. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

07.04.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk

G.K.ILANTHIRAIYAN, J.



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To

1. Judicial Magistrate No.2, Vellore

2. The Inspector of Police,
District Crime Branch, Vellore
District 632 004.

3. The Public Prosecutor,
High Court, Madras.

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