



Crl.O.P.No. 9521 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.04.2025

CORAM:

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

Crl.O.P.No. 9521Of 2025
and Crl.MP.No.6285 of 2025

M.Venkatajalapathi

... Petitioner

Vs.

1.State Represented by
The Inspector of Police,
District Crime Branch,
Chengalpattu District.
Crime No.622 of 2017.

2. V.Murali

.. 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.87 of 2023 on the file of II Judicial Magistrate, Chengalpattu and quash the same.

For Petitioner : Mr. M.Jaisingh

For Respondents

For R1 : Mr. A.Gopinath
Government Advocate (Crl. Side)

ORDER



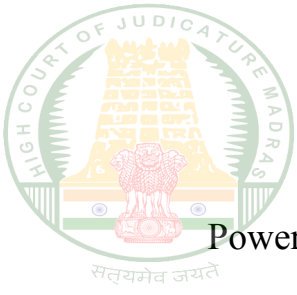
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This petition has been filed to quash the proceedings in

WEB COPY C.C.No.87 of 2023 on the file of the II Judicial Magistrate, Chengalpattu thereby taken cognizance for the offences under Sections 406, 465, 467, 468, 471, 420, 506(i) of IPC in Crime No.622 of 2017, as against this petitioner.

2. The case of the prosecution is that the second respondent had purchased the properties at Mugunthagiri Village, Cheyyur Taluk, Kancheepuram District by way of five sale deeds. While being so, the accused approached the second respondent and assured him that he will help him sell his properties. Believing his words, the second respondent executed the Power of Attorney in his favour. However, the petitioner without paying any sale consideration sold out the properties to the third parties. Further, the defacto complainant contacted the petitioner and requested him to render accounts for the said Power of Attorneys executed by him. At the time, he admitted his mistakes and issued three cheques and the same were returned on the grounds of “insufficient funds”.

3. Per contra, the learned Appellate Court, even after cancellation of



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Power of Attorney, the accused entered in an agreement in the name of his wife by furnishing life certificate to the defacto complainant and registered the same. Therefore, there are specific allegations against the petitioner. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.87 of 2023 pending on the file of the Judicial Magistrate No.II, Chengalpattu.

4. The learned Counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.622 of 2017 for the offences under Sections 406, 465, 467, 468, 471, 420, 506(i) of IPC, as against the petitioner and the same has been taken cognizance in C.C.No.87 of 2023 on the file of the Judicial Magistrate No.II, Chengalpattu. Hence he prayed to quash the same.



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5. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

6. Heard the learned Counsel appearing on either side and perused the materials placed on record.

7. On perusal of the records, it reveals that there are specific averments to attract the offence under Sections 406, 465, 467, 468, 471, 420, 506(i) of IPC. Even after the cancellation of Power of Attorney, the petitioner had executed the sale deed. Therefore, it is absolutely cancelled. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.622 of 2017 for the offences under Sections 406, 465, 467, 468, 471, 420, 506(i) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.87 of 2023. by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

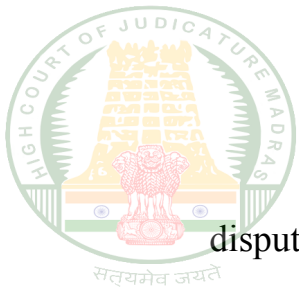


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8. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)*** while dealing with the petition to quash the entire 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./180 of the Bharatiya Nagarik Suraksha Sanhita, 2023. (*any one*)

9. 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



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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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10.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.



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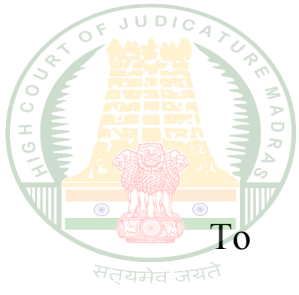
WEB COPY 11. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the charge sheet cannot be entertained to quash the entire proceedings.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.87 of 2023 on the file of the Judicial Magistrate No.II, Chengalpattu. 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.

13. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed.

01.04.2025

drl



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To

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1.The Inspector of Police,
District Crime Branch,
Chengalpattu District.

2.The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.
drl

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