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CrI.O.P.No. 10097 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

CORAM:

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

CrI.O.P.No.10097 of 2025 and
CrI.M.P.Nos.6730 and 6731 of 2025

N.Pradeep

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep by Additional Deputy Commissioner of Police -I,
Central Crime Branch,
Vepery, Chennai 600 007.

2.D.Uma

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the final report dated 10.03.2021 and additional final report dated 04.10.2023 in C.C.No.4358 of 2024 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai and quash the same insofar as this petitioner is concerned (Accused No.284).



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For Petitioner : Mr.P.Wilson,
Senior Counsel for
M/S Victor Zacarias Victor

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

ORDER

This petition has been filed to quash the proceedings in C.C. No. 4358 of 2024 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai.

2. The case of the prosecution is that, on the complaint lodged by the second respondent, the first respondent registered an FIR in Crime No. 468 of 2017 for offences under Sections 406, 465, 468, 471, 420, 120B, 201 of IPC r/w 66 and 43(i) of Information Technology Act, 2008. The second respondent was selected as the nodel agency to recruit Lecturers for Government Polytechnic Colleges by the Commissioner of Technical Education, Chennai. Accordingly, the second respondent



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entered into a tri-party agreement with M/s Datatec Methodox Pvt. Ltd., and ELCOT for a period of 12 months and extended to three years upto 31.07.2017. Subsequently, a notification was published inviting applications for the posts of Lecturers, and an examination was conducted on 16.09.2017. The OMR answer sheets used in the examination were sealed in strong boxes and kept in a strong room under armed police escort with CCTV coverage. After the sealed boxes were opened, they were tallied with the attendance register. The OMR sheets were scanned, and the scanned data was stored in a hard disk. The second respondent, as per the instructions of the Chairman, provided the hard disk containing the scanned OMR sheets to the relevant authorities.

3. While being so, on 06.10.2017, the tentative answer keys for all 15 subjects were uploaded by the second respondent through Datatech. The final answer keys and orders were forwarded to Datatech for processing on 31.10.2017. Datatech then prepared a general merit list for certificate verification in a 1:2 ratio, which was verified and approved by the second respondent before releasing the result and calling candidates



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for certificate verification. However, after the publication of the merit list, a complaint was received through the PM/CM Cell alleging that candidates from the Electrical and Electronics Engineering (EEE) discipline, who had scored lower marks in the Tamil Nadu Electricity Board (TNEB) exam, had been ranked in the Teacher Recruitment Board (TRB) exam. That apart, a petition was received on RTI application from various candidates who sought the OMR sheets and scanned images of the OMR sheets. On comparison, discrepancies were found in the scanned images of the OMR sheets of 19 candidates.

4. Subsequently, further investigation revealed that certain answers, which were worth two marks, had not been shaded in the hard disk furnished by the second respondent, though they were found to be shaded in the processing data OMR copies received from Datatech. This discrepancy was reported to the Chairman. To ensure transparency, the second respondent ordered a re-evaluation of the OMR images of candidates who had been called for certificate verification. Upon re-evaluation, discrepancies were found in the entries of 109 candidates. As



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a result, it was decided to re-evaluate all the OMR sheets, and a revised list of candidates was prepared. The re-evaluation revealed discrepancies in the marks of 225 candidates from the certificate verification list, as compared to the marks published at the time of the original result. Three marks were found to be mistakenly awarded to 29 candidates, while marks ranging from 25 to 104 were found to be altered for 196 candidates. Therefore, the marks of these 196 candidates, after their written competitive examination, were found to have been fraudulently altered, and therefore, the earlier result was withdrawn on 11.12.2017. Subsequently, the final answer keys were published for the benefit of the candidates from 11.12.2017. Pursuant to this, the second respondent issued a Show Cause Notice to Datatech, however, no reply was received. Hence, the complaint.

5.The learned Senior counsel for the petitioner submits that the petitioner is arrayed as Accused No.284 and has no involvement in the alleged offence. There is no specific allegation as against the petitioner in the final report or the additional final report filed by the first



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respondent. In fact, no witness has mentioned the petitioner's involvement in any overt act that would attract any of the offences. Moreover, the petitioner was not a successful candidate in the examination conducted by the second respondent. Therefore, it is contended that the petitioner has been falsely implicated as an accused, particularly in the additional final report.

6. The learned Government Advocate (crl.side) would submit that the FIR was registered based on the complaint lodged by the second respondent, implicating the petitioner in a conspiracy to alter OMR answer sheets and manipulate examination results. The investigation revealed fraudulent alterations in the marks of 196 candidates. Despite failing the examination, the petitioner is linked to the criminal conspiracy involving fraudulent data manipulation and forgery. The petitioner's involvement in the offence is substantiated by the evidence of the conspiracy, and there are no grounds to quash the proceedings. Therefore, the learned Government Advocate (crl.side) prays for dismissal of this petition.

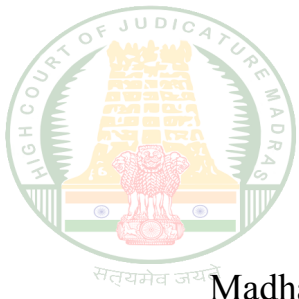


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7. Heard both sides and perused the materials placed before this Court.

8. On perusal of the records, it is evident that though the petitioner failed in the written examination, the petitioner's OMR sheet was corrected by Datatech. This case involves fraud and forgery aimed at cheating, with all the accused having entered into a criminal conspiracy. By utilizing information technology and expertise, the OMR answer sheets and data of 196 candidates were altered, leading to wrongful gain for certain individuals. Accused persons 1 to 4, after securing the extension of their contract with the second respondent for IT-enabled services, entered into a criminal conspiracy in July 2017. They fraudulently used the internet and advanced technology to alter the digital data, thereby changing the results to favour certain candidates and to the detriment of other loyal candidates. These actions were carried out for unlawful gain, with the active involvement of two technicians. The accused persons collected materials from Universal Printers at



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Madhavaram Junction, comprising 101 packets containing OMR answer sheets, and intentionally transported them via GRK Transport for fraudulent purposes.

9. Moreover, the candidates involved, who possessed the necessary educational qualifications, entrusted their original certificates to the accused, knowingly engaging in unlawful activities to secure their selection over honest candidates by altering the examination results. The petitioner, along with others, was well aware of the rules, regulations, and procedures of the examination and the consequences of indulging in malpractice. They deliberately chose to violate these rules and committed fraud in the examination.

10. 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



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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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



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12. 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 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.

13. That apart, 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 stage. The same is required to be considered at the conclusion of the trial.



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Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

14. In view of the above, this Court finds no grounds to quash the entire proceedings in C.C.No.4358 of 2024 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai as against the petitioner. Accordingly, this Criminal Original Petition is, therefore, dismissed. Further, the Trial Court is directed to proceed with the trial and complete the same within a period of one year from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

07.04.2025

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

1. The Chief Metropolitan Magistrate, Egmore, Chennai
2. The Additional Deputy Commissioner of Police -I,
Central Crime Branch, Vepery, Chennai 600 007.
3. Public Prosecutor, Madras High Court.

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