



Crl.O.P.No.8768 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

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

Crl.O.P.No. 8768 of 2025

and

Crl.M.P.Nos. 5743 & 5755 of 2025

1.Duraisamy
2.Karthikeyan

..... Petitioners

Vs

1.State by
The Inspector of Police,
Erode North Police Station,
(Crime No.25 of of 2023)

2.Shabeer Ahamed
Proprietor of S.K.Tex,
S.F.No.8/3, Pari Nagar,
Mamarathupalayam,
Periyasemur,
Sathy Road, Erode 638 004.

..... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2025, to call for the records of the case pending in C.C.No.186 of 2024 on the file of the learned Chief Judicial Magistrate, Erode and quash the same.

For Petitioners : Mr.C.P.Palanichamy

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

ORDER



CrI.O.P.No.8768 of 2025

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.186 of 2024 on the file of the Chief Judicial Magistrate, Erode, thereby taken cognizance for the offences under Sections 380 and 457 of IPC.

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

3. The petitioners are arrayed as A1 and A2 in C.C.No.186 of 2024 and are facing charges under Sections 380 and 457 of IPC. It is alleged that the premises comprised in S.F.No.83 situated at Pari Nagar, Sakthi Main Road, Mamarathupalayam, Erode District, is owned by one Karuppanasamy. The premises, admeasuring 2860, had been leased out in favour of the defacto complainant, viz., the second respondent, who is running a business under the name and style S.K.Tex.

4. While being so, there was a dispute between the petitioner and the second respondent as well as the original owner of the premises. It is alleged that in an attempt to forcibly evict the second respondent, the petitioners trespassed into the premises and unlawfully



Crl.O.P.No.8768 of 2025

removed machinery and other articles worth about Rs.4.60 Crores.

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5. The learned counsel appearing for the petitioner would submit that the second respondent was a tenant in the subject premises and that the dispute between the parties is purely a here was a landlord tenant dispute. Now, the second respondent vacated the premises on his own and no offence is made out as against the petitioner.

6. A perusal of the records reveals that after the purchase of the property, the petitioner forcibly evicted the second respondent. There are specific allegations in the complaint indicating that the petitioner trespassed into the premises and removed valuable machinery and other items. Therefore, there are specific allegations as against the petitioner to attract the offences under Sections 380 and 457 of IPC.

7. 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



Crl.O.P.No.8768 of 2025

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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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, (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 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 ***Crl.A.No.1817 of 2019*** in the case of ***M.Jayanthi Vs. K.R.Meenakshi & anr***, held that while considering the



CrI.O.P.No.8768 of 2025

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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.

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

11. In view of the above discussion, this Court finds no



CrI.O.P.No.8768 of 2025

grounds to quash the proceedings in C.C.No.186 of 2024 on the file of

the learned Chief Judicial Magistrate, Erode and is liable to be dismissed.

Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

25.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Lpp

To

1. Chief Judicial Magistrate,
Erode.

2. The Inspector of Police,
Erode North Police Station,

3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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Crl.O.P.No.8768 of 2025

Lpp

Crl.O.P.No.8768 of 2025

25.03.2025