



WEB COPY



Crl.O.P.No. 9546 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. 9546 of 2025
and Crl.MP.Nos.6327 & 6328 of 2025

Hariharan alias Pondi Durai

... Petitioner

Vs.

The Inspector of Police,
Central Crime Branch Team 7
Vepery,
Chennai – 600 007.

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the entire records in C.C.No.2845 of 2024 pending on the file of Additional Chief Metropolitan Magistrate for CCB Cases, Egmore, Chennai to quash all further proceedings against the petitioner.

For Petitioner : Mr. P.Rameshkumar
For Respondents : Mr. A.Gopinath
Government Advocate (Crl. Side)



Crl.O.P.No. 9546 of 2025

ORDER

WEB COPY

This petition has been filed to quash the proceedings in C.C.No.2845 of 2024 pending on the file of Additional Chief Metropolitan Magistrate for CCB Cases, Egmore, Chennai.

2. The case of the prosecution is that the petitioner along with other accused was running monthly chits and they had been conducting unregistered chits for several years including a Diwali fund, Pongal fund, School fund and several other persons believing the words of the accused, have invested amounts, and they have been cheated by the accused to the tune of Rs.40,60,719/-. Hence the case.

3. 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. He further submitted that the petitioner was born on 10.04.2023. He did not even complete 18 years and he was a juvenile at the time of registering the FIR. Further there are no special averments made in the FIR, as he is used to accompanying his mother while



Crl.O.P.No. 9546 of 2025

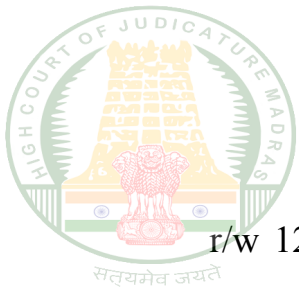
WEB COPY

collecting money from the person who prescribed the chit. Without any base, the first respondent police registered a case in Crime No.192 of 2022 for the offence under Sections 406, 420 of IPC and 76(1) of Chit fund Act 1982 r/w 120(B) of IPC, as against the petitioner and the same has been taken cognizance in C.C.No.2845 of 2024 on the file of the Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai. Hence he prayed to quash the same.

4. 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.

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

6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.192 of 2022 for the offences under Sections 406, 420 of IPC and 76(1) of Chit fund Act 1982



Crl.O.P.No. 9546 of 2025

WEB CO
r/w 120(B) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.2845 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

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 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*)



Crl.O.P.No. 9546 of 2025

WEB COPY

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 Section 482 of Cr.P.C./528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.(any one)

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 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



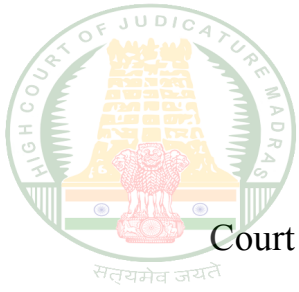
Crl.O.P.No. 9546 of 2025

WEB.COM

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. On perusal of records it is evident that the petitioner is the proprietor of Chit under the name of Hariharan Chit Fund. Whether the petitioner is a minor or a major, at the time of registering the FIR, it has to be established during trial. Further this Court cannot observe at this stage that 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 final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.2845 of 2024 on the file of the Additional



Crl.O.P.No. 9546 of 2025

Court for Exclusive Trial of CCB Cases, Egmore, Chennai. The petitioner

is at liberty to raise all the grounds before the trial Court.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petitions are closed.

01.04.2025

drl

To

1.The Inspector of Police,
Central Crime Branch Team 7
Vepery, Chennai – 600 007.

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

3.The Additional Court for Exclusive
Trial of CCB Cases, Egmore, Chennai.



WEB COPY



Crl.O.P.No. 9546 of 2025

G.K.ILANTHIRAIYAN. J,

drl

Crl.O.P.No. 9546 of 2025
and Crl.MP.Nos.6327 & 6328 of 2025

01.04.2025