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Crl.O.P.No.13385 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2025

CORAM:

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

Crl.O.P.No. 13385 of 2025 and
Crl.M.P.No.8909 of 2025

N.Ethirajan

.... Petitioner

Vs

1.State represented by
Inspector of Police,
CCB-II, Land Grabbing Cell,
Chennai Commissionerate,
Veppery, Chennai.
(Crime No.91 of 2014).

2.B.Padmavathi

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the charge sheet against this petitioner / accused 5 in C.C.No.226 of 2021 on the file of learned Judicial Magistrate No.I at Poonamallee pending disposal of the main quash petition.

For Petitioner : Mr.C.Nithiyanandam

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



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.226 of 2021 on the file of learned Judicial Magistrate No.I at Poonamallee.

2. The case of the prosecution is that the second respondent had earlier submitted a complaint to the Commissioner of Police alleging that she is the owner of a government-approved residential plot measuring 1825 sq. ft., situated at Ponnammanmedu, Thanikasalam Nagar, Kolathur, Chennai. While being so, the petitioner along with other accused had created forged documents in respect of the said land. It was further alleged that the accused persons had unlawfully put up fencing and constructed shops on the said property. When the second respondent came to know about the encroachment, the accused persons allegedly threatened her with an intent to extort money and forcibly dispossess her of the property. Based on this complaint, the matter was forwarded to the first respondent for further enquiry. After conducting a detailed investigation, the first respondent registered an FIR in Crime No. 91 of



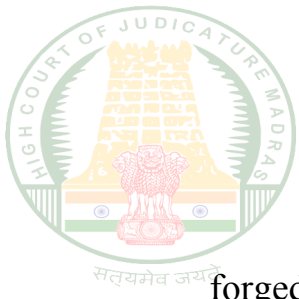
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2014 for the offences punishable under Sections 465, 468, 447 of IPC r/w Section 34 of IPC. Subsequently, the investigation was completed, and a final report was filed before the Judicial Magistrate No. I, Poonamallee, which is now taken cognizance in C.C. No. 226 of 2021.

3. The learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case. It is contended that there is no specific overt act or direct allegation made as against the petitioner. The entire dispute, even if accepted on face value, is civil in nature arising out of alleged title and possession over immovable property. It is further submitted that the continuation of criminal proceedings against the petitioner would amount to abuse of process of law. Hence, he prays to quash the proceedings.

4. The learned Government Advocate (Crl. Side) submitted that based on the detailed investigation conducted by the first respondent, sufficient materials have been collected, including documentary evidence, to establish the role of the petitioner (A5) along with other accused. The allegation against the petitioner pertains to the creation of



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forged documents and unlawful encroachment upon the second respondent's land, followed by criminal intimidation. The final report has already been filed, and the case is now pending trial in C.C. No. 226 of 2021. Hence, he prays for the dismissal of this petition.

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

6. On perusal of records, it is seen that certain accused persons, including the petitioner herein, had fabricated forged documents relating to a property and encroached upon the same by putting up shops. The allegation of forgery, criminal trespass, and intimidation involves factual disputes and evidentiary appreciation. Whether the petitioner had a role in the alleged acts or not is a matter to be determined during the trial based on oral and documentary evidence. At this stage, this Court is not inclined to undertake a detailed evaluation of the veracity of the allegations.

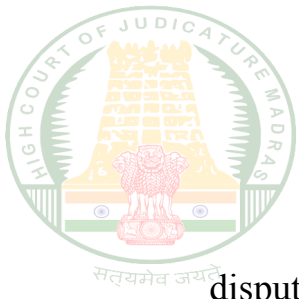


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7. The Hon'ble Supreme Court of India, in the judgment reported in **2019 (4) SCC 351** in the case of ***Devendra Prasad Singh vs. State of Bihar & Anr. (Criminal Appeal No.579 of 2019, dated 02.04.2019)***, while dealing with a petition to quash 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



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disputed facts. The defence of the accused is to be tested after 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.



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10. Further, this Court cannot, at this stage, observe that the initiation of criminal proceedings is malicious. Whether the proceedings are malicious or not is a matter to be considered only at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained for quashing the entire proceedings at this stage.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.226 of 2021 on the file of learned Judicial Magistrate No.I at Poonamallee. The petitioner is at liberty to raise all the grounds before the Trial Court. 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.



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G.K.ILANTHIRAIYAN, J.
shk

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

29.04.2025

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

To

1.The Judicial Magistrate No.I at Poonamallee.

2.The Inspector of Police,
CCB-II, Land Grabbing Cell,
Chennai Commissionerate,
Veppery, Chennai.

3. The Public Prosecutor, High Court, Madras.

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