



Crl.O.P.No. 11190 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.04.2025

CORAM:

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

Crl.O.P.No.11190 of 2025

and

Crl.M.P.No.7496 of 2025

Balu

..... Petitioner

Vs

1.The State Rep. by
The Inspector of Police,
DCB Police Station,
Perambalur District.
Cr.No.13 of 2023

2.Amuthavalli
Sub-Registrar I/C,
Sub-Registrar Office,
Veppanthattai, Perambalur District.

..... 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.37 of 2025 on the file of Learned Judicial Magistrate-I, Perambalur and quash the same.

For Petitioner : Mr.I.Abdul Basith

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 seeking to quash the proceedings in C.C.No.37 of 2025 pending on the file of the Judicial Magistrate No.I, Perambalur, thereby taken cognizance for the offences under Sections 406, 417, 465, 468, 471 & 474 of IPC.

2. The case of the prosecution is that the petitioner, who was serving as the Sub Registrar at the Veppanthattai Registration Office, had, without verifying the documents and misusing his official position, registered the documents bearing Doc.Nos.1139 & 1055 of 2019. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner has been arrayed as A7. He further submitted that the petitioner, in his official capacity as Sub Registrar, had merely discharged his statutory duty of registering the documents and has no connection with the allegations made by the second respondent.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.

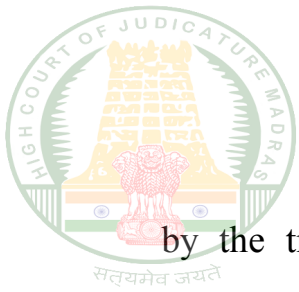


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5. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.13 of 2023 for the offences under Sections 406, 417, 465, 468, 471, 474 of IPC. After completion of investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.37 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

6. A perusal of the records reveals that the petitioner registered the documents, without even verifying the death certificate and legal heir certificate. That apart, there are specific allegations as against the petitioner in order to attract the offence as per the charge sheet.

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



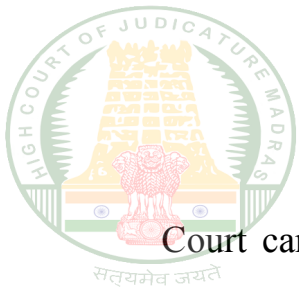
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by the trial Court while deciding the issues on the merits or/and by the

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 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 **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



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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 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.37 of 2025 pending on the file of the judicial Magistrate No.I, Perambalur. 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.



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12. Accordingly, the Criminal Original Petition stands dismissed.

WEB CON Consequently, connected miscellaneous petition is closed.

16.04.2025

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

To

1.The Judicial Magistrate-I,
Perambalur.

2.The Inspector of Police,
DCB Police Station,
Perambalur District.

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



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