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Crl.O.P.No.11936 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.11936 of 2025
and Crl.M.P.No.7953 of 2025

Raja

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
R4, Soundarapandiyanar
Angadi Police Station,
Crime No.346/2019

2. K.Boomi
R2 impleaded vide order
dated 29.04.2025 made in
Crl.M.P.No.8995 of 2025
in Crl.O.P.No.11936 of 2025

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the charge sheet C.C.No.1094 of 2024 pending on learned XVII MM, Saidapet, Chennai and quash the same.



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For Petitioner : Mr. S.S.Sathosakumar
For Respondents
For R1 : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the proceedings in C.C.No.1094 of 2024 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai, thereby taken cognizance for the offences under Sections 406, 420 r/w 34 of IPC in Crime No.346 of 2019, as against this petitioner.

2. The case of the prosecution is that the petitioner had collected huge amount from 13 witnesses to get government job. There are four accused persons in which, the petitioner is arrayed as A1. Insofar as the petitioner is concerned, he received a sum of Rs.25,00,000/-. However, he did not obtain any job and also refused to return the money. Hence, the complaint.

3. The learned Counsel appearing for the petitioner would submit that for the very same set of allegations, another complaint has been lodged



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and the same has been charge sheeted in C.C.No.9 of 2024 on the file of the learned Judicial Magistrate, Alandur. For the very same allegations, the present complaint has been lodged before the first respondent and after completion of investigation the same has been taken cognizance in C.C.No.1094 of 2024. Therefore, for the very same set of allegations two charge sheet cannot be sustained and 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.346 of 2019 for the offences under Sections 406 & 420 r/w 34 of IPC. After completion of investigation, the first respondent filed final report and the same has been



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taken cognizance in C.C.No.1094 of 2024 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

7. On perusal of records, it is revealed that the petitioner received huge amount from various victims on various area on various dates. Both the offences committed by the petitioner in different dates. Therefore, two FIR had been registered and both are culminated as Calender Case. That apart, there are specific allegations as against the petitioner to attract the offences punishable under Sections 406 & 420 of IPC r/w 34 of IPC.

8. 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



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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.

9. 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.

10. 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



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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 consititue 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 consititue 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.

110. Further this Court cannot observe at this stage 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.



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WEB COPY 12. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.1094 of 2025 on the file of the learned XVII Metropolitan Magistrate, Saidapet, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

29.04.2025
(½)

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

To

1. XVII Metropolitan Magistrate,
Saidapet, Chennai.

2. The Inspector of Police,
R4, Soundarapandiyanar
Angadi Police Station,

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



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G.K.ILANTHIRAIYAN. J.
rts

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