



Crl.O.P.No.12560 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12560 of 2025
and Crl.M.P.Nos.8347 and 8350 of 2025

1. Sasikumar
2. Raja

... Petitioners

Vs

1. State Represented by,
The Inspector of Police,
Central Crime Branch (CCB),
Avadi, Chennai. 600 054.
2. Justin Paul

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Crl.P.C/Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash the proceedings in CC.No.216 of 2023, which is pending before the learned Judicial Magistrate No.II, at Ponneri.

For Petitioners : Mr.V.Ramanareddy
For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)
For R2 : Mr.Ramasubramaniam Raja

ORDER

This Criminal Original Petition has been filed to quash the proceeding in CC.No.216 of 2023 on the file of Judicial Magistrate No.II, at Ponneri.



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2. Heard both sides and perused the materials placed on record.

3. The case of the prosecution is that the defacto complainant is the President Technical of Chennai Power Corporation Ltd.,. The said Company acquired lands to the total extent of 55.75 acres in Kattupalli and Kalanchi Villages in the year 2006, for the establishment of 1000 Mega Watt coal based power plant. Thereafter, the Company is in possession and occupation of the said vast extent of lands. On 13.04.2015, the Company came to know about the illegal land grabbing acts of the accused who had created fraudulent documents by executing General Power of Attorney and with that strength tried to convey the Company's property to some third parties. Hence, the complaint.

4. On receipt of the complaint, the first respondent registered FIR in Crime No.18 of 2016, for the offences punishable under Sections 420, 465 and 468 of IPC. After completion of investigation, the respondent Police filed a final report and the same has been taken cognizance in CC.No.216 of 2023 on the file of Judicial Magistrate No.II, at Ponneri.

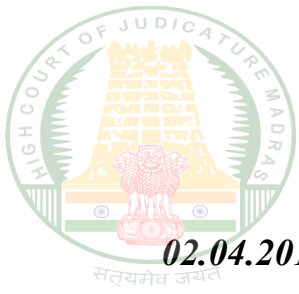


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5. The learned counsel for the petitioner would submit that there was a counter complaint in this regard and the same was closed as “Mistake of Fact”. All the allegations are civil in nature and the second respondent had already filed a suit in O.S.No.28 of 2016 on the file of the District Munsif Court, Ponneri and CS.No.694 of 2016 before this Court and the same was subsequently transferred to City Civil Court. Therefore, the second respondent had given a criminal color for the civil dispute.

6. A perusal of records revealed that the second respondent owned subject property. The first accused impersonated the second respondent and executed a Power of Attorney in favour of A2, thereby encumbering the property which belongs to the second respondent. All the accused convened together in order to cheat the second respondent and fabricated the general Power of Attorney as if it was adjudicated by the registering authority. Therefore, there are specific allegations to attract the offences punishable under Sections 420, 465 and 468 of IPC as against the accused.

7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated



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02.04.2019 in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr.,**

as follows:-

" 12.So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13.In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in **Crl.A.No.1572 of 2019** dated 17.10.2019 in the case of



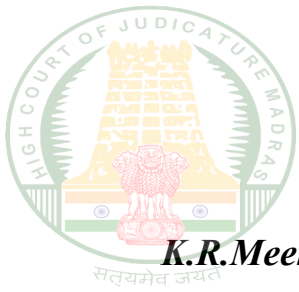
Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held

as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

9. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs.**



K.R.Meenakshi & anr, as follows:

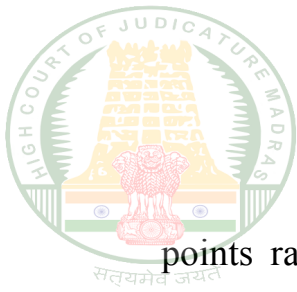
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"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

.....

13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the



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points raised by the petitioner are mixed question of facts and it cannot be considered in quash petition under Section 482 Cr.P.C.

10. In view of the above, this Court is not inclined to quash the proceeding in CC.No.216 of 2023 on the file of Judicial Magistrate No.II, at Ponneri. However, the personal appearance of the petitioners is dispensed with and they shall be represented by a counsel after filing appropriate application. However, the petitioners 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 in CC No.216 of 2023, within a period of six months from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petitions are closed.

24.04.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Judicial Magistrate No.II, at Ponneri.
2. The Inspector of Police,
Central Crime Branch (CCB),
Avadi, Chennai. 600 054.
3. The Public Prosecutor,
High Court, Madras.

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