



Crl.O.P.No. 12856 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2025

CORAM:

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

Crl.O.P.No. 12856 of 2025

and

Crl.M.P.Nos.8512 & 8513 of 2025

Ramu Alias Kottairamu

.... Petitioner

Vs

1.State rep. by
The Inspector of Police,
Erode Taluk Police Station,
Erode District.
Crime No.235 of 2021

2.Duraisamy

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the entire records pertaining to the proceedings in C.C.No.120 of 2022 on the file of the learned Additional District and Special Court for trial of cases under the E.C. Act, Coimbatore and Sessions Judge (FAC), Sessions Court for Trial of Bomb Blast Cases, Coimbatore and quash the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

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

ORDER



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This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.120 of 2022 pending on the file of the Additional District and Special Court for trial of cases under the E.C.Act, Coimbatore.

2. The case of the prosecution is that on receiving the secret information regarding the procurement and sale of ganja, the second respondent, after obtaining permission, conducted a search at the house of A7 and A8. During the search, A7 and A8 attempted to escape, they were caught hold. Based on the information, A1, A2, A9 and A10 were arrested and remanded to judicial custody. Based on their confession statements, the second respondent seized 232.5 Kgs of Ganja. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that there are totally 15 accused in which the petitioner is arrayed as A4. The only ground raised by the petitioner is that the petitioner has been implicated as an accused based on the confession statements of the co-accused.

4. The learned Government Advocate (Crl.Side) appearing



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for the first respondent submitted that the petitioner is a habitual offender and has been involved in similar offences. That apart, the petitioner is a named accused in the FIR. After seeing the authorities, he fled away from the scene of occurrence. Therefore, the petitioner was also in conscious possession of the contraband.

5. 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.

6. On a perusal of the records, it is seen that there are specific allegations to attract the offences punishable under Sections 120(B), 212 of IPC and 8(c) r/w 20(b)(ii)(c) and 29(1) of NDPS Act, 1985.

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



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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 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



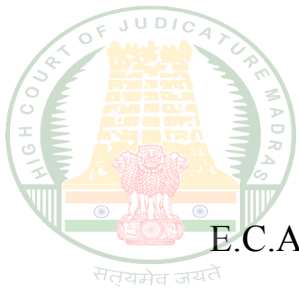
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petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for 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. 120 of 2022 on the file of the Additional District and Sessions Court for Trial of Cases under the



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E.C.Act, Coimbatore. The petitioner is at liberty to raise all the grounds before the trial Court. However, 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.

12. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

25.04.2025

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

1.The Additional District and Special Court for trial of cases under the E.C. Act, Coimbatore.

2.The Inspector of Police,
Erode Taluk Police Station,
Erode District.

3.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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