



CrI.O.P.No.14168 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2025

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.14168 of 2025

and

CrI.M.P.Nos.9592 and 9597 of 2025

B.Jayakanthan

... Petitioner

Vs.

The State Rep.by

1. The Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur,
Kancheepuram District.

2. Sri Venkatesan

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in connection with the charge sheet in C.C.No.217 of 2024 in Crime No.702 of 2019 on 06.11.2019 on the file of the Judicial Magistrate Court at Sriperumbudur and quash the same by allowing the above said Criminal Petition.

For Petitioner : Mr.P.Arumugam

For Respondents : Dr.C.E.Pratap
Government Advocate (CrI.Side)
for R1



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ORDER

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This Criminal Original Petition is filed to quash the charge sheet in C.C.No.217 of 2024 in Crime No.702 of 2019 dated 06.11.2019 on the file of the Judicial Magistrate Court at Sriperumbudur.

2. The case of the prosecution as per the *de-facto* complainant is that based on the advertisement given by A1, who is said to be running a college canteen on a contract basis at Rajalakshmi Engineering College at Thirupperumbudur, has given in the advertisement in online platform for selling the same. On coming to know about the same, complainant contacted A1 and expressed his willingness to undertake the said canteen. After negotiations, an agreement was entered between the parties, A1 and A2 accepted to sell the said canteen and had stated that the canteen which stands in the name of one Sunitha Sri/A2 will be changed to the name of the *de-facto* complainant on execution of sale agreement and a sum of Rs.45,00,000/- was agreed to be the total sale consideration. The complainant has paid Rs.16,00,000/- as advance and took charge of the said canteen. After taken over charge of the said canteen, there was three months vacation in the college, the complainant



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has paid salary to the employees for a sum of Rs.3,00,000/- per month for four months, totalling to Rs.12,00,000/-. Despite receiving advance amount, A1 and A2 have not transferred the management of the canteen to the *de-facto* complainant's name. In the meanwhile, the college administration contacted the complainant and said that they are going to run the canteen themselves and that the complainant should vacate the canteen. While that being so, the complainant contacted A1 and A2 for several times to transfer the ownership from the name of A2 to the name of the complainant, however, neither they have handed over the canteen nor repaid the amount paid by the complainant. Moreover, A1 and A2 abused the complainant with filthy language and also threatened the complainant. Hence, based on the complaint given by the *de-facto* complainant, the first respondent-Police registered a case in Crime No.702 of 2019 for the offences punishable under Sections 294(b), 506(1) and 420 IPC. Subsequently, after enquiry, the first respondent-Police filed a charge sheet in C.C.No.217 of 2024 before the Judicial Magistrate, Sriperumbudur.

3. Learned counsel for the petitioner submitted that the petitioner



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is an innocent person and he is no way connected with the alleged offence, and there is a civil dispute regarding agreement between A2 and the *de-facto* complainant and the petitioner herein is only worker in the said canteen. As per the sale agreement, the ownership of the canteen should be transferred to the name of the complainant within three months after paying the remaining amount, but the complainant did not send any notification to the petitioner that he was willing to execute the sale agreement after paying the balance sale consideration. He further submitted that instead of filing the case against real accused, the complainant had filed the case against the petitioner, who is only a worker in the said canteen. Though as per the sale agreement, a sum of Rs.1 lakh was paid to the petitioner/A1, Rs.1 lakh paid to A2 and most of the amount was paid to Srinivasan and Niranjana, but they have not been impleaded as accused in the alleged offences. Further, the *de-facto* complainant made a false case against the petitioner, unfortunately the first respondent-Police without proper enquiry, given a criminal colour to the civil dispute and therefore, the petition has to be quashed.

4. Learned Government Advocate (CrI.Side) appearing for the first



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respondent-Police submitted that the petitioner, who has been arrayed A1 also received the amount from the *de-facto* complainant, knowing fully well that they are not the owners of the said canteen and cheated the *de-facto* complainant. The *de-facto* complainant in his statement has clearly stated about the involvement of the A1 and A2 in the alleged offence.

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

6. On a reading of the complaint and F.I.R and also statement recorded from the witnesses, this Court finds that *prima facie* there are materials against the petitioner to proceed the case further. In fact the other persons, who are involved in this case have not been added as accused. Admittedly, the Court can always invoke Section 319 Cr.P.C./358 BNSS and can implead the other accused who have been involved in the alleged offences. However, the non-impleadment of other accused in the case, does not mean that the petitioner can get the relief as sought for in this petition.



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7. However, on a reading of the statement recorded from the witnesses there is a *prima facie* materials to proceed with the case further against the petitioner and it is a matter for trial. Whether the petitioner is involved in the alleged offence or not can be decided only after trial and hence, this Court is not inclined to entertain this petition by invoking Section 528 BNSS Act, 2023. Hence, the Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

8. The personal appearance of the petitioner is dispensed with. However, the petitioner is hereby directed to appear before the trial Court, as and when his appearance is required for.

03.06.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

1. The Judicial Magistrate,
Judicial Magistrate Court,
Sriperumbudur.
2. The Inspector of Police,
Sriperumbudur Police Station,
Sriperumbudur,
Kancheepuram District.
3. The Public Prosecutor,
High Court, Madras.



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P.VELMURUGAN, J

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