



Crl.O.P.No.13830 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 30.04.2025

CORAM:

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

Crl.O.P.No.13830 of 2025
and Crl.M.P.Nos.9231 & 9233 of 2025

Sasthageer @ Dhasdhageer

... Petitioner

Vs.

1. State rep by
The Inspector of Police,
District Crime Branch Police Station,
Namakkal District.
(Crime No.9 of 2020)

2. Saritha

.. Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the C.C.No.1 of 2025 on the file of the learned Judicial Magistrate Court No.I, Namakkal, and quash the same by allowing this Criminal Original Petition.

For Petitioner : Mr. Jayshree Dharbar

For Respondents

For R1 : Mr. R.Vinothraja
Government Advocate (Crl. Side)



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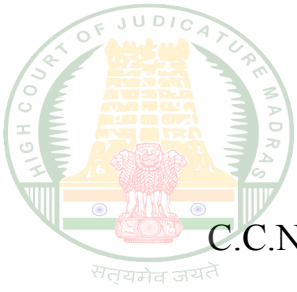
ORDER

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This petition has been filed to quash the proceedings in C.C.No.1 of 2025 on the file of the learned Judicial Magistrate-I, Namakkal, thereby taken cognizance for the offence under Section 420 IPC, in Crime No.9 of 2020, as against this petitioner.

2. The case of the prosecution is that the petitioner and another were running a finance company and they promised to provide loan on payment of 10% commission. Believing the same, the defacto complainant and others had paid a sum of Rs.9,75,000/- to the petitioner's company as commission in order to receive loan. However, the petitioner's company failed to provide loan. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.9 of 2020 for the offences under Section 420 of IPC, as against the petitioner and the same has been taken cognizance in



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C.C.No.1 of 2025 on the file of the learned Judicial Magistrate Court No.I,

WEB COM Namakkal. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and the case is posted on 05.05.2025 for questioning.

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.9 of 2020 for the offences under Sections 420 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.1 of 2025 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.



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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 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



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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 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.



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WEB CONTENT

10. 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.

11. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.1 of 2025 on the file of the learned Judicial Magistrate Court No.I, Namakkal. The petitioner is at liberty to raise all the grounds before the trial Court. 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.

30.04.2025

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

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1. The Judicial Magistrate Court No.I,
Namakkal.
2. The Inspector of Police,
District Crime Branch Police Station,
Namakkal District.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.
rts

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