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CrI.O.P.No.8418 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8418 of 2025
and
CrI.M.P.Nos.5530 and 5531 of 2025

Jothi Mani

... Petitioner

Vs.

1. The State represented by
The Inspector of Police,
Civil Supplies C.I.D
Cuddalore.
(Cr.No.239 of 2013)

2. Kamalakannan

... Respondents

PRAYER: This Criminal Original Petition is filed under Section to call for the entire records pursuant to the C.C.No.276 of 2024 in Cr.No.239 of 2013 on the file of Judicial Magistrate-I, Cuddalore and quash the same in so far the petitioner is concerned by allowing this Criminal Original Petition.

For Petitioner : Mr.Krishnasamy Chinnasamy

For Respondents : Mr.A.Gopinath,
Government Advocate (CrI.Side)
for R1

ORDER



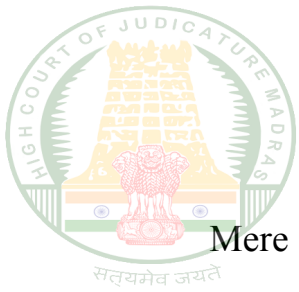
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This petition has been filed to quash the proceedings in C.C.No.276 of 2024 on the file of the learned Judicial Magistrate-I, Cuddalore, thereby taken cognizance for the offences under Sections 6(2), 6(3) of TN Scheduled Commodities (RDCS) order 1982 and 7(1)(a)(ii) Essential Commodities Act, 1955 in Crime No.239 of 2013, as against this petitioner.

2. The crux of the prosecution case is that the petitioner has fraudulently sold the essential commodities from the Pacharapalayam Primary Credit Society and thereby misappropriated a sum of Rs.8,635.62/-

3. The learned Counsel appearing for the petitioner submits that the FIR has been registered in the year 2013. The final report has been filed after a period of 10 years i.e., on 22.03.2024. Now, the same has been taken cognizance in C.C.No.276 of 2024 on the file of the learned Judicial Magistrate-I, Cuddalore for the offence under Sections 6(2), 6(3) of TN Scheduled Commodities (RDCS) order 1982 and 7(1)(a)(ii) Essential Commodities Act, 1955. Meanwhile, the disciplinary action has been initiated as against the petitioner and the same was closed. Now, the alleged misappropriated amount has been deposited by the petitioner.



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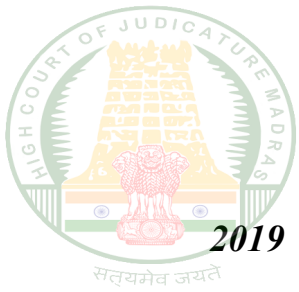
Mere deposit of the misappropriated amount would not observe the rules only because of the pendency of the disciplinary proceedings, the second respondent could not be able to file final report.

4. The learned Government Advocate (Crl. Side) reiterated the prosecution case and submits that the disciplinary action has been initiated as against the petitioner and the same was closed. Now, the alleged misappropriated amount has been deposited by the petitioner.

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.239 of 2013 for the offences under Sections 6(2), 6(3) of TN Scheduled Commodities (RDCS) order 1982 and 7(1)(a)(ii) Essential Commodities Act, 1955. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.276 of 2013 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

7. The Hon'ble Supreme Court of India in the judgment reported in



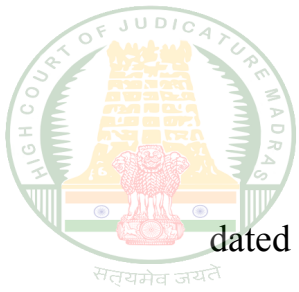
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2019 (4) SCC 351 in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing

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 inconsistent statement under Section 161 of Cr.P.C.

8. Further, the Judgement of the Hon'ble Supreme Court of India 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 482 of Cr.P.C.

9. The Hon'ble Supreme Court of India in another judgment



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dated **02.12.2019** passed in ***CrI.A.No.1817 of 2019*** in the case of

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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.

10. Further this Court cannot observe at this stage whether the initiation of criminal proceeding itself is malicious or not. Whether the criminal proceeding is malicious or not, is not required to be considered at this stage. 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



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quash the proceedings in C.C.No.239 of 2013 on the file of the learned Judicial Magistrate-I, Cuddalore. 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.

21.03.2025

Vv

To

- 1.The Judicial Magistrate-I,
Cuddalore
2. The Inspector of Police,
Civil Supplies C.I.D
Cuddalore.
3. The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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