



Crl.O.P.No.19678 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 28.08.2025

Pronounced on : 08.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.19678 of 2025

and

Crl.M.P.Nos.13513, 13514 & 16299 of 2025

Vinod Kumar Verma

... Petitioner

Vs.

State represented by Inspector of Police,
D.C.B., Vellore.

... Respondent

Common Prayer : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita to set aside the order dated 03.06.2025 passed by the learned I Additional District and Sessions Judge, Vellore, in Crl.R.C.No.4 of 2024 confirming the order in Crl.M.P.No.13882 of 2023 in C.C.No.257 of 2020 and consequently, discharge the petitioner/accused from all offences charged in the final report in C.C.No.257 of 2020 pending before the learned Judicial Magistrate No.II, Vellore.

For Petitioner : Mr.C.Mani Shankar
Senior Counsel
for Mr.Rahul M Shankhar



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For Respondent : Mr.K.M.D.Muhilan,
Additional Public Prosecutor

For Petitioner : Mr.J.Ranjith Kumar
for M/s.Surana & Surana
in Crl.M.P.No.16299 of 2025

ORDER

This Criminal Original Petition has been filed challenging the order dated 03.06.2025 passed by the learned I Additional District and Sessions Judge, Vellore, dismissing the revision filed by the petitioner in Crl.R.C.No.4 of 2024, confirming the order of the learned Judicial Magistrate No.II, Vellore, dated 19.02.2024 in Crl.M.P.No.13882 of 2023 in C.C.No.257 of 2020, filed by the petitioner seeking discharge.

2.The petitioner was prosecuted for the alleged offences under Sections 477A, 380, 406 and 420 IPC. The crux of the final report filed against the petitioner/accused is that the accused was engaged by the *de facto* complainant as Project Director in their company known as Varsha Constructions. The said company was involved in construction and



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services to the Government and Armed Forces. The *de facto* complainant was awarded with a contract of construction project for the Indian Navy at INS RAJALI, Arakkonam. The accused had prior experience and was also running his own firm in Raipur, Chhattisgarh. He was employed as a Project Director by the *de facto* complainant and his father to execute the work with a condition that he will get 20% share in profits.

3.During such employment, the accused, with an intention to cheat the *de facto* complainant, posed himself as owner of the *de facto* complainant firm and received the advance paid by the suppliers of materials in the project site, i.e., L.Ws.3, 6 and 7, and thereafter, falsified the accounts as if the accounts were disbursed to the witness Nos.5 and 8 without actually disbursing the amounts to them and manipulated the accounts book. Besides, the accused has also stolen the accounts book along with a firm issued laptop. Therefore, it is the specific charge against the accused that he has manipulated the account books and misappropriated the amount to the tune of Rs.21,00,000/-.

4.After the final report was taken on file by the learned Judicial



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Magistrate No.II, Vellore, in C.C.No.257 of 2020, the accused has filed the present discharge application to discharge him from the case on the ground that the entire transaction is civil in nature and in fact, the statements recorded by the Investigation Officer from the witnesses do not constitute an offence. Hence, according to the accused, the offences as alleged against him are not made out and it is only civil transaction.

5.However, the said discharge petition was opposed by the *de facto* complainant. The trial Court dismissed the discharge application filed by the accused/petitioner.

6.Challenging the same, a revision has been filed by the petitioner before the learned I Additional District and Sessions Judge, Vellore. Considering the submissions on both sides, the revision Court has dismissed the revision confirming the orders of the trial Court dismissing the discharge application. Challenging the same, the present Criminal Original Petition has been filed by the petitioner under Section 528 BNSS.

7.Learned Senior Counsel appearing for the petitioner/accused would



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submit that the offences as alleged against the petitioner are not made out and the entire dispute is purely civil in nature arising out of a contract entered between the parties. It is his submission that the accused and the *de facto* complainant have entered into a contract giving the accused a share in profit at 20%. Therefore, the entire civil dispute has now been given criminal colour. It is the vehement submission of the learned Senior Counsel that the statements recorded by the prosecution from the witnesses, taken as such together, will not make out any offence as against the accused. Further, it is his submission that the statements of the witnesses are not corroborated by the material particulars. Therefore, the learned Senior Counsel would submit that no offence is made out as against the petitioner and therefore, continuing prosecution against the petitioner is an abuse of process of law and hence, the petitioner has to be discharged from the offences.

8. Whereas, the learned Additional Public Prosecutor appearing for the respondent Police would submit that the very application under Section 528 BNSS/482 Cr.P.C., challenging an order made in a revision, is not maintainable. It is his submission that the revision Court has taken note of



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the materials collected by the prosecution and has rightly dismissed the revision confirming the order of the trial Court dismissing the discharge application. Hence, he opposed this petition.

9.I have perused the entire materials available on record.

10.As far as maintainability of an application under Section 482 Cr.P.C./Section 528 BNSS as against the order passed by the revision Court, is concerned, the law is well settled in this regard. This Court, in ***Geetha Devi v. D.I.Nathan*** reported in ***(2015) Crl.L.J. 2482***, has held that provisions under Section 482 Cr.P.C. can be invoked only when there is any abuse of process of Court or the interests of justice call for such exercise. Therefore, it is clear that, though an application under Section 482 Cr.P.C. is not barred, but it is maintainable only in exceptional cases only when there is abuse of process of law or the interests of justice call for such exercise as against the revision Court order. In the absence of any evidence to show that there is abuse of process of Court or interests of justice call for such exercise, as a matter of right, a petition Section 482 Cr.P.C./Section 528 BNSS cannot be entertained as against the revision Court order.



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11.The very application before the trial Court is only for discharge of the accused. While considering the plea of discharge, the trial Court has to normally consider the materials collected by the Investigation Officer. At that stage, the trial Court has to see only whether a *prima facie* case is made out or not. The issue as to whether the offences are proved beyond reasonable doubt, is not at the helm of discussion by the trial Court at the stage of deciding a discharge application. Even on a mere suspicion to entertain a charge against the accused, the trial Court can dismiss the application for discharge. The probative value of the materials on record cannot be gone into by the trial Court while entertaining an application for discharge. In order to discharge an accused, the Court has to satisfy itself that the materials collected against the accused are not frivolous and there are no materials against the accused for proceeding against him by framing the charges. Therefore, at that stage, the veracity and the probative value of the statements recorded from the witnesses, cannot be gone into by the trial Court. Whether or not the offence is made out beyond reasonable doubt, is also beyond the scope of the learned Magistrate or the Court while



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exercising its power of discharge.

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12.In the light of the above well settled principles, now, this Court will examine the case on hand. The allegations in the present case as against the accused, when carefully read, it is the specific case of the prosecution that the accused was employed as Project Director in one of the projects awarded to the *de facto* complainant firm, whereas, the accused has posed himself as owner of the *de facto* complainant company and taken back the advance paid by the company from the witnesses and thereafter, the accused has also made entries in the account book as if the amount has been returned back to other witnesses without actually returning the amount, and thereby swindled the amount of Rs.21,00,000/-. The very charge against the accused is with regard to the alleged misappropriation of Rs.21,00,000/- by manipulating the accounts. It is relevant to note that the witnesses statements indicate that the accused, as a Project Director of the *de facto* complainant company, has manipulated the accounts book as if cash has been paid to the suppliers, however, no cash been received by the suppliers. The witnesses, in their statements, also supported the version of the prosecution. Further, L.W.6, in his statement, also indicated that the



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amount paid by the *de facto* complainant company has been taken back by the accused through Bank transfer and he has also posed himself as owner of the property and taken away the money. All these statements *prima facie* indicate that the accused, being employed as Project Director in a project awarded to the *de facto* complainant company, has allegedly made false entries in the accounts books and an amount to the tune of Rs.21,00,000/- has been misappropriated. It is also relevant to note that forensic evidence is also available with regard to the alleged manipulation of the accounts. Therefore, this Court is of the view that there are *prima facie* materials available against the accused to frame charges.

13. Though the learned Senior Counsel emphasized on the admissibility and veracity and corroboration of materials collected by the prosecution, it is not for the Court, at this stage, to conduct a roving enquiry by appreciating the statements under Section 161 Cr.P.C. as that of substantive evidence and give a finding. When there are *prima facie* materials available against the accused to frame charges, it is for the trial Court to frame charges and thereafter, appreciate the substantive evidence on record and give a finding. Therefore, at this stage, neither the trial Court



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nor this Court sitting in Section 482 Cr.P.C/Section 528 BNSS can conduct any roving enquiry or mini trial. While framing charges, the Court has to only *prima facie* satisfy itself as to the materials collected by the prosecution and the defence documents cannot be considered at that stage. If at all any contract is entered between the parties as partners, it is a matter of evidence which has to be appreciated only at the time of trial.

14.In such view of the matter, I do not find any merit in this petition and accordingly, this Criminal Original Petition is dismissed.

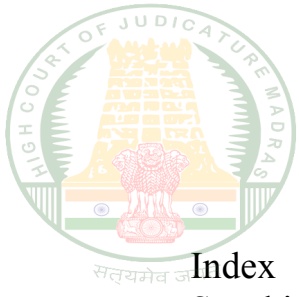
15.The trial Court is directed to proceed for framing necessary charges and appreciate the evidence in the light of the defence that may be taken by the accused and decide the case on its own merits. Consequent to the dismissal of the main Criminal Original Petition, the impleading petition in CrI.M.P.No.16299 of 2025 is also dismissed. Other connected miscellaneous petitions are closed.

08.09.2025

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Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

- 1.The I Additional District and Sessions Judge,
Vellore.
- 2.The Judicial Magistrate No.II,
Vellore.
- 3.The Inspector of Police,
D.C.B., Vellore.
- 4.The Public Prosecutor,
High Court, Madras.



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N. SATHISH KUMAR, J.

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