

Crl.OP.Nos.20648 of 2023

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 08.04.2025

CORAM:

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

Crl.O.P.Nos.20648 of 2023

and

Crl.MP.Nos.14091 and 14092 of 2023

1. Chandran
2. Janakiraman
3. Balaji
4. Arun Prabakaran

... Petitioners

Vs.

1. State: The Inspector of Police,
Thiruvallur Town Police Station,
Thiruvallur District.

2. Mariyappan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C to call for the records pertaining to the charge sheet in PRC.No.02 of 2023 on the file of the Judicial Magistrate-I, Thiruvallur, Thiruvallur District and quash the same.

For Petitioner : Mr.M.P.Saravanan



WEB COPY



Crl.OP.Nos.20648 of 2023

For Respondents : Mr.R.Vinoth Raja
Government Advocate (Crl.Side)
for R1
: Mr.K.Balasubramaniam for R2

ORDER

This Criminal Original Petition has been filed to quash the charge sheet in PRC.No.02 of 2023 on the file of the Judicial Magistrate-I, Thiruvallur, Thiruvallur District.

2. On the complaint lodged by the second respondent, the first respondent has registered an FIR against the petitioners in Cr.No. of for the offence punishable under Sections 120B, 448, 379, 506(2) and 34 of IPC and Section 3(1) of TN Public Property (Prevention of Damage and Loss), Act 1992.

3. The case of the prosecution is that on 19.09.2005, the defacto complainant had entered into unregistered sale agreement with one Chandran(A1) relating to residential plots and shops comprised in Old Survey No.134 , New Survey No.182/2A, Plot No.70 admeasuring to an extent of 2115 sq.ft situated at Iveli Agaram



Crl.OP.Nos.20648 of 2023

WEB COPY

Village, Thiruvallur Taluk and District , but A1 is purposely and wrongly mentioned the schedule mentioned property as S.No.782/9, 782/24, Plot No.64 admeasuring to an extent of 2115 Sq.ft situated at Iveli Agaram Village, Thiruvallur Taluk and District in the sale agreement. Thereafter in the year 2006, the first petitioner is executed the power of attorney deed in favour of the second petitioner subsequently in the year 2007 and 2018, the first petitioner sold the property to and in favour of third petitioner and one Mr.Saravanan for the above said property and they are not mentioned the shops in their sale deed for which loss for the Government then the defacto complainant is filed two suits against them in O.S.No.161 of 2006 and 53 of 2018 before the Sub Court, Thiruvallur. After receiving the Court summon, they were demolished the said two shops on 02.03.2018 and stolen the two shutters from there. Subsequently, he filed the petition before the learned Judicial Magistrate-I, Thiruvallur an the same was ordered thereafter, the first respondent has registered the FIR .

4. The learned counsel appearing for the petitioner submitted that there is no material to attract the offence as against the petitioner



Crl.OP.Nos.20648 of 2023

and there was no demolition in the premises.

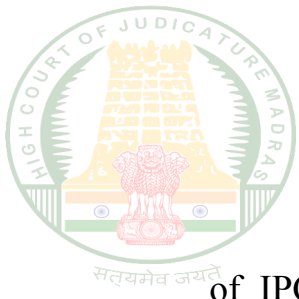
WEB COPY

5. Even according to the evidence of Revenue Officials, there was no shop and no demolition. These grounds can be raised only before the trial Court during trial. That apart, there are specific averment to attract the offence 120B, 448, 379, 506(2) and 34 of IPC and Section 3(1) of TN Public Property (Prevention of Damage and Loss), Act 1992 as against the petitioner.

6. The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and and prayed for dismissal.

7. Heard both sides and perused the materials available on record.

8. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.261 of 2019 for the offences under Sections 120B, 448, 379, 506(2) and 34

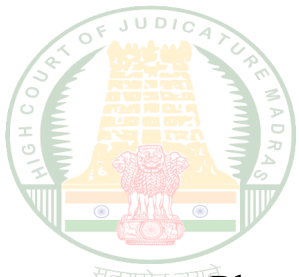


Crl.OP.Nos.20648 of 2023

WEB COPY

of IPC and Section 3(1) of TN Public Property (Prevention of Damage and Loss), Act 1992. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in P.RC.No.02 of 2023 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner filed the present petition.

9. 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 161 of Cr.P.C./180 of the



Crl.OP.Nos.20648 of 2023

Bharatiya Nagarik Suraksha Sanhita, 2023. (*any one*)

WEB COPY

10. 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 482 of Cr.P.C.

11. 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



Crl.OP.Nos.20648 of 2023

WEB COPY

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.

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

13. In view of the above discussion, this Court is not inclined to quash the proceedings in P.R.C.No.2 of 2023 on the file of the learned Judicial Magistrate -I, Thiruvallur District. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the age of the petitioner, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel



Crl.OP.Nos.20648 of 2023

WEB COPY

after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The trial Court is directed to complete the committal proceedings within a period of two weeks from the date of receipt of copy of this Order.

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

08.04.2025

Vv

To

1. The Judicial Magistrate-I,
Thiruvallur, Thiruvallur District
2. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



Crl.OP.Nos.20648 of 2023

G.K.ILANTHIRAIYAN, J.

Vv



WEB COPY



Crl.OP.Nos.20648 of 2023

Crl.O.P.No20648 of 2023

08.04.2025