



Crl.O.P.No.18672 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :17.03.2025

CORAM:

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

Crl.O.P.No.18672 of 2023
and Crl.M.P.Nos.12449 & 12450 of 2023

Anil Kumar B Jain

... Petitioner

Vs.

1. The Inspector of Police,
Central Crime Branch,
Tiruppur City,
Tiruppur.
Cr.No.16/2021

2. Srinivasulu

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in respect of the impugned C.C.No.216 of 2023 on the file of the learned Judicial Magistrate Court No.III, Tiruppur and quash the same.

For Petitioner : Mr.A.Thirumaran

For Respondents

For R1 : Ms.J.R.Archana
Government Advocate (Crl.Side)

For R2 : Mr.A.Ashok Kumar



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.216 of 2023 pending on the file of the learned Judicial Magistrate Court No.III, Tiruppur, thereby taken cognizance for the offences punishable under Sections 403, 406, 420, 120B, 506(1) of IPC and Section 66C of Information Technology Act.

2. The case of the prosecution is that the first accused was entrusted with eight ROSCTL licenses belonging to the second respondent, worth about Rs.2,66,60,972, under Invoice No.ASH/SOSCTL/004/2020-21, for the purpose of selling them. However, the first accused sold these licenses to the petitioner's company, on 15.09.2020 and 06.10.2020, without the permission of the second respondent. It is further alleged that the petitioner knowingly purchased the licenses from the first accused and without paying any consideration to the defacto complainant.

3. The learned counsel appearing for the petitioner submitted that there are totally two accused in which the petitioner is arrayed as A2. There petitioner's company has been transacting with the first accused for



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the past two years and the first accused was transacting as an authorized agent of the defacto complainant viz., second respondent herein. During the transactions, the first accused had sold the licenses of the second respondent in the capacity of authorized agent of the second respondent. Therefore, the petitioner is a bonafide purchaser and he has nothing to do with the offence committed by the first accused. The petitioner is being bonafide purchaser had no reason to disbelieve the first accused as the first accused is the authorized agent of the defacto complainant to sell the license.

4. Heard the learned Counsel appearing on either side and perused the materials placed on record.

5. On perusal of records and the submission made by the learned counsel appearing second respondent revealed that the second respondent filed suit in O.S.No.21 of 2022 on the file of the learned Principal District Judge, Tiruppur and it is pending for adjudication. In the said suit, the first accused filed written statement and categorically stated that the licenses have been sold out by the defacto complainant directly to the petitioner. Thereafter, the petitioner failed to pay license

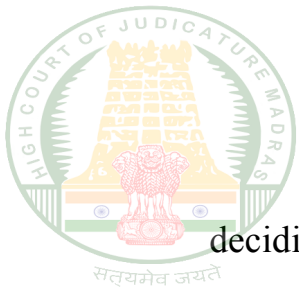


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amount to the tune of Rs.2,66,60,972/-. That apart, on perusal of the

statement recorded from the witnesses it is revealed that the petitioner did not pay the amount either to the first accused or to the second respondent herein. Even assuming that the petitioner purchased the license directly from the first accused, the petitioner had knowledge about that the license right hold by the defacto complainant and the defacto complainant never authorized the first accused to sell the license. Therefore, there are specific allegations to attract the offences under Sections 403, 406, 420, 120B, 506(1) of IPC and Section 66C of Information Technology Act.

6. 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



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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.

7. Fruther, 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.

8. 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 consititue certain



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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.

9. 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.

10. In view of the above discussions, this Court is not inclined to quash the proceedings in C.C.No.216 of 2023, on the file of the learned Judicial Magistrate Court No.III, Tiruppur. The petitioner is at liberty to raise all the grounds before the trial Court. Considering the facts and circumstances of the case, the personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after



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filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 313 Cr.P.C., and at the time of passing judgment. 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.

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

17.03.2025

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

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G.K.ILANTHIRAIYAN, J.

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To

1. The Judicial Magistrate Court No.III,
Tiruppur

2. The Inspector of Police,
Central Crime Branch,
Tiruppur City,
Tiruppur.

3. The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.18672 of 2023 and
Crl.M.P.Nos.12449 & 12450 of 2023

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