



Crl.O.P.No.4391 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 13.03.2025

DELIVERED ON : 26.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.4391 of 2023
and Crl.M.P.Nos.2760 and 2761 of 2023

R.Rangarajan

... Petitioner

Vs

1. State represented by
The Inspector of Police,
District Crime Branch,
Cuddalore District.

2. P.Rajavel

... Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the entire records in connection with C.C.No.298 of 2017 on the file of the learned Judicial Magistrate No.II, Chidambaram and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.M.Elumalai

For R1 : Mr.A.Gopinath
Government Advocate (Crl.side)



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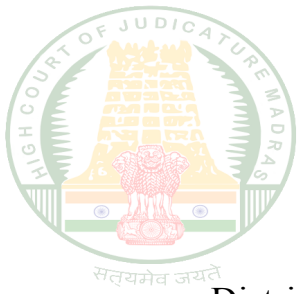
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ORDER

This Criminal Original Petition has been filed challenging the charge sheet in C.C.No.298 of 2017 on the file of the learned Judicial Magistrate No.II, Chidambaram.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials placed on record.

3. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.3 of 2014 for the offences punishable under Sections 409, 465, 468, 471, 477A, 120B read with Section 34 of IPC, alleging that a Junior Assistant, who is a named accused in the FIR, brought the salary ledger to obtain signature from the second respondent. The second respondent suspected the salary schedule and verified the same. He found that the accused claimed excess salary to the tune of Rs.4,75,380/- by comparing with the earlier month's salary ledger. Therefore, the second respondent submitted a report before the



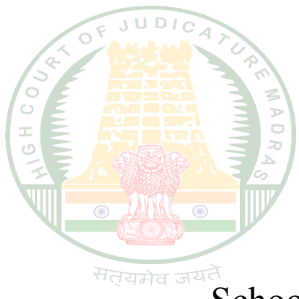
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District Collector and on the complaint, the District Collector ordered for enquiry by its communication dated 19.12.2013. Thereafter, an inspection was conducted and submitted a report. Accordingly, the accused fabricated the documents and claimed excess salary, thereby committed various offences.

4. After completion of investigation, the first respondent filed a final report as against the accused persons and the same has been taken cognizance in C.C.No.298 of 2017 on the file of the learned Judicial Magistrate No.II, Chidambaram.

5. The learned counsel for the petitioner would submit that there are totally three accused, in which the petitioner is arrayed as third accused who was working as Special Tahsildar (Land Acquisition), National Highways Authority of India, Chidambaram. Thereafter, he was transferred on 21.06.2012 and joined as Special Tahsildar, Adi Dravidar Welfare, Chidambaram, Cuddalore district. He was authorized to sign the pay bills for the staff/Teachers working in the Adi Dravidar Welfare

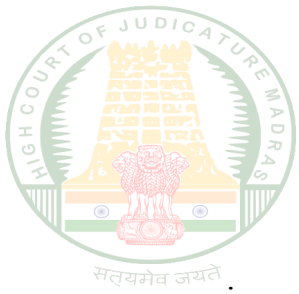


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Schools and Hostels functioning in the entire district of Cuddalore under the control of the Adi Dravidar Welfare Department. After his joining, the pay bill was placed for approval. On scrutiny, he suspected them and raised bill excessively. However, due to urgency, he failed to produce the Bill Register which was sent for binding, the petitioner accorded approval for the pay bills for the month of June, 2012. For the month of May 2012, the pay bill was prepared by the first accused and uploaded for the total sum of Rs.23,42,422/-. However, for the month of June, 2012, the first accused prepared the pay bill for a sum of Rs.33,17,322/-. Thus, there was an excess amount of Rs.9,74,900/-. Therefore, on the instruction of the petitioner, the first accused had remitted excess amount to the Government account. Therefore, the petitioner has nothing to do with any of the offences as alleged by the prosecution.

6. However, pursuant to the criminal case, the petitioner was arrested and remanded to judicial custody. Disciplinary proceeding was initiated as against the petitioner by suspending him from service. On the date of his superannuation, he was not permitted to retire from service,



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since the departmental proceeding was pending. In fact, the petitioner is a whistle blower and even then, he has been made as an accused in the criminal case. He also produced a document to show that the amount which was excessively withdrawn for salary has been remitted to the Government account.

7. The learned Government Advocate (Crl.side) appearing for the first respondent submitted that the petitioner is arrayed as third accused. There are specific allegations as against the petitioner to attract the offences under Sections 409, 465, 468, 471, 477A, 120B read with Section 34 of IPC. The petitioner was working as a Special Tahsildar, Adi Dravidar Welfare, Chidambaram from 21.06.2012 to 05.11.2013. During his service, he colluded with other accused persons and received amount to the tune of Rs.25 Lakhs from the first accused. In fact, the first accused categorically made his confession statement and also it is corroborated by the petitioner herein.



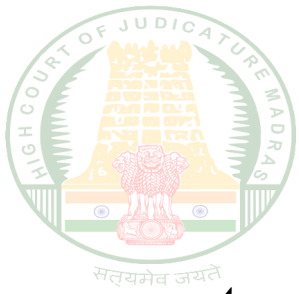
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8. That apart, a perusal of records revealed that during his service for the period from 21.06.2012 to 05.11.2013, there was misappropriation to the tune of Rs.20,00,700/-. By fabrication of pay bill, the petitioner received excess amount from the treasury and thereby caused loss to the exchequer.

9. A perusal of the confession statement of the first accused also revealed that the petitioner had received a sum of Rs.25 Lakhs from the first accused. Further, on perusal of the enquiry report revealed that during the period of the petitioner's tenure from 21.06.2012 to 05.11.2013, there was misappropriation to the tune of Rs.20,00,700/- from the office of the petitioner and caused loss to the said tune to the exchequer. Mere repayment of the misappropriated amount would not abscond the criminal prosecution.

10. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in ***Crl.A.No.579 of 2019*** dated ***02.04.2019*** in the case of ***Devendra Prasad Singh Vs. State of Bihar &***



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Anr., as follows:-

" 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order passed by the Trial Court but not in Section 482 Cr.P.C. proceedings.

13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.



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11. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in ***Crl.A.No.1572 of 2019*** dated 17.10.2019 in the case of ***Central Bureau of Invstigation Vs. Arvind Khanna***, wherein, it has been held as follows:

“19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C.

20. In our view, the assessment made by the High Court at this stage, when the matter



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has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.”

12. Further the Hon'ble Supreme Court of India also held in the order dated **02.12.2019** in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr**, as follows:

"9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

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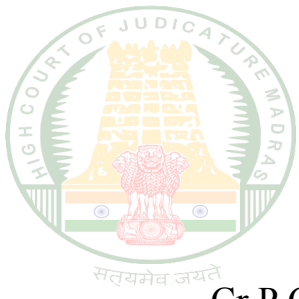


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13. A look at the complaint filed by the appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....."

The above judgments are squarely applicable to this case and as such, the points raised by the petitioner are mixed question of facts and it cannot be considered in quash petition under Section 482 Cr.P.C.

13. In view of the above discussion, this Court is not inclined to quash the proceedings in CC.No.298 of 2017 on the file of the learned Judicial Magistrate No.II, Chidambaram. However, The personal appearance of the petitioner in C.C.No.298 of 2017 on the file of the learned Judicial Magistrate No.II, Chidambaram, is dispensed with and he shall be represented by a counsel 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 313



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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 a copy of this Order.

14. Accordingly, this Criminal Original Petition is dismissed.
Consequently, connected Miscellaneous Petitions are closed.

26.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
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G.K.ILANTHIRAIYAN. J.

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To

1. The Judicial Magistrate No.II,
Chidambaram.
2. The Inspector of Police,
District Crime Branch,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.

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