



Crl.O.P.No.3401 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

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

Crl.O.P.No.3401 of 2025
and Crl.M.P.Nos.2242 & 2243 of 2025

Rajan Babu Martha

... Petitioner

Vs.

1. The State Rep. by
The Sub Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 007,
CCB Cr.No.155/2023.

2. Melvin, JR Pace,
Assistant Regional Security officer – Investigator
US Consulate General,
Chennai.

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.1534 of 2024 on the file of the Chief Metropolitan Magistrate, Egmore, Chennai for the alleged offence under Section 12(1)(b) of the Passport Act, 1967 and quash the same.

For Petitioner : Mr.E.Gomathi

For Respondents

For R1 : Mr.R.Vinothraja

Government Advocate (Crl. Side)



Crl.O.P.No.3401 of 2025

ORDER

WEB COPY

This petition has been filed to quash the proceedings in C.C.No.1534 of 2024 pending on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai, as against the petitioner, thereby taken cognizance for the offences under Section 12(1)(b) of the Passport Act, 1967.

2. The case of the prosecution is that the petitioner herein possessed four Indian passports with different biographical information and presented himself for U.S. Immigrant Visa B1/B2 on different occasions during the year 1999 to 2008 for which, the second respondent viz., the Assistant Regional Security officer – Investigator US Consulate General, Chennai, lodged a complaint with the first respondent, who registered the case in CCB.Cr.No.155 of 2023 for the offences under Section 12(1)(b) of the Passport Act, 1967. After completion of investigation in Crime No.155 of 2023, the first respondent filed final report and the same has been taken cognizance in C.C.No.1534 of 2024, on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai.



Crl.O.P.No.3401 of 2025

WEB COPY

3. The learned counsel appearing for the petitioner submitted that after registration of FIR, the first respondent filed final report belatedly. He further submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.155 of 2023 for the offences under Section 12(1)(b) of the Passport Act, 1967, as against the petitioner and the same has been taken cognizance in C.C.No.1534 of 2024 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that the trial has been commenced and some of the witnesses have been examined in this case.

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.155 of



Crl.O.P.No.3401 of 2025

2023 for the offences under Section 12(1)(b) of the Passport Act, 1967.

WEB.COM

After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.1534 of 2024 of 2019 by the trial Court and it is pending. To quash the said proceedings, the present petition has been filed.

7. On perusal of records revealed that the final report has been filed in time and there is no delay on the part of the first respondent. Further the petitioner had knowingly furnished different identifiable information and has presented himself as another person and obtained Indian Passports. Therefore, the petitioned committed very serious offence and this Court is not inclined to quash the proceedings.

8. 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



Crl.O.P.No.3401 of 2025

WEB COPY

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 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

9. 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 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

10. 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



Crl.O.P.No.3401 of 2025

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.

11. 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.

12. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.1534 of 2024 on the file of the learned Chief Metropolitan Magistrate, Egmore, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court.



Crl.O.P.No.3401 of 2025

WEB COPY 13. Accordingly, the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are also closed.

10.02.2025

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

rts

To

1. The Chief Metropolitan Magistrate,
Egmore, Chennai.

2. The Sub Inspector of Police,
Central Crime Branch,
Vepery, Chennai – 600 007,

3. The Assistant Regional Security officer – Investigator,
US Consulate General,
Chennai.

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



WEB COPY



Crl.O.P.No.3401 of 2025

G.K.ILANTHIRAIYAN, J.

rts

Crl.O.P.No.3401 of 2025
and Crl.M.P.Nos.2242 & 2243 of 2025

10.02.2025