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Crl.O.P.No.3126 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2025

CORAM:

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

Crl.O.P.No.3126 of 2023
and Crl.M.P.Nos.1853 & 1973 of 2023

A.Natarajan

... Petitioner

Vs.

1. State rep. by
The Superintendent of Police,
CBCID Metro Wing-I,
Chennai.

2. M.Varadhan

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in connection with the final report in C.C.No.5658 of 2019 on the file of the Metropolitan Magistrate Court exclusively for CCB & CBCID, Egmore, Chennai and quash the same in respect of the petitioner alone.

For Petitioner : Dr.R.Sampath Kumar

For Respondents

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



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ORDER

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This petition has been filed to quash the proceedings in C.C.No.5658 of 2019 on the file of the Metropolitan Magistrate Court exclusively for CCB & CBCID, Egmore, Chennai, thereby taken cognizance for the offences punishable under Sections 465, 467, 468, 471, 120(B), 323 & 506(ii) of IPC in Crime No.3 of 2016, as against this petitioner.

2. The case of the prosecution is that the petitioner and other accused persons in order to grab the property owned by the defacto complainant, fabricated the legal-heir ceritfcated and approached the defacto complainant to vacate the subject property claiming that they are the legal-heirs of the original owner. Hence the complaint.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is 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.3 of 2016, for the offences punishable under Sections 465, 467, 468, 471, 120(B), 323 & 506(ii) of IPC, as against the



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petitioner and the same has been taken cognizance in C.C.No.5658 of 2019

on the file of the Metropolitan Magistrate Court exclusively for CCB & CBCID, 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 so far the prosecution has examined 36 witnesses out of the 61 witnesses.

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.3 of 2016 for the offences under Sections 465, 467, 468, 471, 120(B), 323 & 506(ii) of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.5658 of 2019 by the trial Court and it is pending. To quash the said criminal proceeding, the petitioner has filed the present petition.

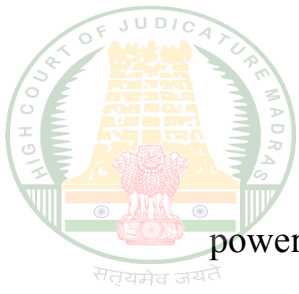


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7. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019 dated 02.04.2019)** while dealing with the petition to quash the entire criminal 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.

8. 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



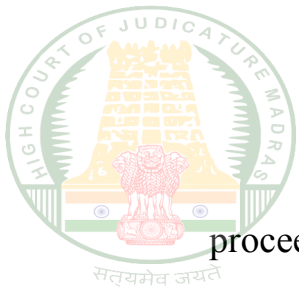
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power to consider the disputed facts under Section 482 of Cr.P.C.

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9. 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 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.

10. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal



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proceeding is malicious or not, is not required to be considered at this stage.

WEB COPY The same is required to be considered at the conclusion of the trial.

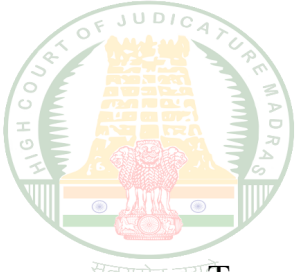
Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

11. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.5658 of 2019 on the file of the Metropolitan Magistrate Court exclusively for CCB & CBCID, Egmore, Chennai. The petitioner is at liberty to raise all the grounds before the trial Court. 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.

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

10.03.2025

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



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To
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1. Metropolitan Magistrate Court
exclusively for CCB & CBCID,
Egmore, Chennai.
2. The Superintendent of Police,
CBCID Metro Wing-I,
Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J.
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