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Crl.O.P.No.18848 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.18848 of 2024

and

Crl.M.P.Nos.11127 and 11128 of 2024

and

Crl.M.P.No.7982 of 2025

M.Pitchai @ Navaneethakrishnan

... petitioner

Vs

1. State by the Inspector of Police,
District Crime Branch,
Cuddalore District,
Crime No.07 of 2016.

2. C.Chinnathambu

... Respondents

Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.152 of 2017 on the file of the District Munsif cum Judicial Magistrate, Neyveli and quash the same.

For petitioner : Mr.C.Munusamy

For Respondents : Mr.R.Vinothraja,
Government Advocate (Crl.Side) for R1



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ORDER

This petition has been filed to quash the proceedings in C.C.No.152 of 2017 on the file of the District Munsif cum Judicial Magistrate, Neyveli.

2. The petitioner is an accused and has filed a discharge petition in C.C.No.152 of 2017 on the file of the District Munsif cum Judicial Magistrate, Neyveli, in C.M.P.No.2761 of 2018, and it is still pending. When the discharge petition is pending, the petitioner has approached this Court by way of this petition to quash the entire proceedings. Notably, the discharge petition has been pending since 2018 without any interim order, and without even pursuing it, the petitioner has approached this Court.

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.7 of 2016 for the offences under Sections 406 and 420 of IPC, as against the petitioner and the same has been taken



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cognizance in C.C.No.152 of 2017 on the file of the District Munsif cum Judicial Magistrate, Neyveli. Hence he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) appearing for the first respondent, on instructions, states that the argument for the discharge petition was already concluded, and the matter was posted for clarification on 29.05.2025 before the trial Court. In fact, the de facto complainant had already filed a petition before this Court in Crl.O.P.No.2690 of 2023 for speedy disposal of the trial in C.C.No.152 of 2017, and this Court, by order dated 08.02.2023, directed the trial Court to dispose of the discharge petition within a period of one month from the date of receipt of a copy of the order and thereafter dispose of the main case as expeditiously as possible. Therefore, he prays for dismissal of the present quash petition.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent and perused the materials placed on record.

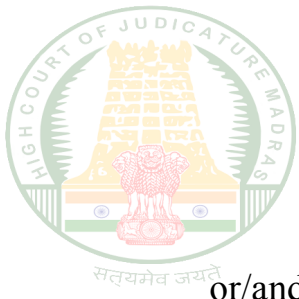


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6. It is seen that on the complaint lodged by the second respondent, the first respondent registered a case in Crime No.7 of 2016 for the offences under Sections 406 and 420 of IPC. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.152 of 2017 by the trial Court for the offences under Sections 406, 420 @ 423, 406 and 420 of IPC and it is pending. On perusal of the records, it is revealed that there are specific averments to attract the offences under Sections 406, 420 @ 423, 406 and 420 of IPC. To quash the said criminal proceeding, the petitioner filed the present petition.

7. The Hon'ble Supreme Court of India in the judgement 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



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

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



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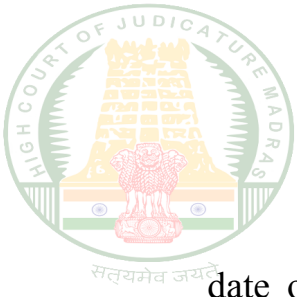
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the basis for the ingredients that constitute certain offences complained of.

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 whether the initiation of criminal proceeding itself is malicious or not. 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.152 of 2017 on the file of the District Munsif cum Judicial Magistrate, Neyveli. The Trial Court is directed to dispose of the discharge petition within a period of eight weeks from the



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date of receipt of a copy of this order and thereafter, complete the trial within a period of six months thereafter.

12. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petitions are also closed.

23.04.2025

Index:Yes/No

Neutral Citation/Yes/No

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To

1. The District Munsif cum Judicial Magistrate, Neyveli.
2. The Inspector of Police,
District Crime Branch,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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