



Crl.O.P(MD).No.23518 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Reserved on : 11.08.2025

Pronounced on : 22.10.2025

PRESENT

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.O.P(MD).No.23518 of 2023

and

Crl.M.P(MD)No.18304 of 2023

T.Manivannan

... Petitioner/Accused No.2

Vs.

The Assistant Commissioner of Customs (Prosecution),
Office of the Commissioner of Customs,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.787 of 2020, dated 20.10.2020 on the file of the Additional Chief Judicial Magistrate, Madurai and quash the same in respect of the petitioner concerned.

For Petitioner	: Mr.B.Sathish Sundar
For Respondent	: Mr.C.Arul Vadivel @ Sekar Special Public Prosecutor for Customs



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ORDER

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The petitioner has filed this petition to quash the proceedings initiated against him in C.C.No.787 of 2020 on the file of the learned Additional Chief Judicial Magistrate, Madurai.

2. The case of the prosecution is that on seizure of 1.690 MTs of red sanders in a consignment of gypsum boards through shipping Bill No.1590098, dated 24.03.2006 of M/s.Freedom Impex, Tuticorin, by its proprietor A1-John Alexander, so the case was registered by the respondent. A1 gave a statement on 25.03.2006 and on 26.03.2006 that the petitioner supplied the red sanders for illegal transport through his shipping bill, so the petitioner was implicated as A2. Final report was filed for prosecuting the A1/John Alexander and the petitioner/A2 T.Manivannan for the offences U/s.135(1) of the Customs Act and the same was taken cognizance as C.C.No.787 of 2020 by the learned Additional Chief Judicial Magistrate, Madurai and the same is pending. The petitioner filed the discharge petition in Crl.M.P.No.992 of 2022 U/s.227 of Cr.P.C. before the Additional Chief Judicial Magistrate Court, Madurai and the same was dismissed on 08.11.2023. Thereafter, five witnesses were examined on the prosecution



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side. At this stage, the petitioner has filed this petition to quash the case proceedings in C.C.No.787 of 2020 as against him.

3. The learned counsel for the petitioner has submitted that the petitioner has been implicated as A2 in this case only based on the alleged statements recorded from the A1/John Alexander, who was the exporter of gypsum. The petitioner is licensed trader and exporter of red sander wood under the name of NKR Corporation. The respondent officials searched the premises of the petitioner's godown and office, but no materials were seized from the petitioner. Based on the alleged confession statements of A1, prosecution as well as adjudication proceedings were taken against the petitioner. Another statement of A1/John Alexander, gave before the Jailor, since A1 was in prison, identifying the photo of the petitioner, is also not admissible in evidence. It is well settled position of law that the confession statement alone cannot be taken as the sole material against another person and the same is also not admissible in law. Based on such alleged confession of A1, the adjudication proceedings were initiated against the petitioner by the respondent official in Order in Original No.64/2007, dated 30.11.2007. Though it was confirmed in Appeal No.C/26/208-SM passed by the Customs



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Excise and Service Tax Appellate Tribunal, South Zone Bench, Chennai as per Final Order No.40598/2016 dated 11.04.2016, the same was set aside by the Division Bench of this Court in C.M.A.(MD)No.944 of 2016 and C.M.P.(MD)No.8489 of 2016 by its order dated 20.02.2024. This Court held that merely the petitioner is licensed dealer in red sander and he knew exporter A1/John Alexander is not a fact to corroborate the incriminating statement of the co-accused, indicating the petitioner and also held that the statement of the co-accused without material corroboration is not acceptable. The respondent official has not preferred any appeal against the order of this court passed in CMA(MD)No.944 of 2016 and so, it became final. The only available material in the hands of the respondent official is the confession statement of co-accused/A1, which is unworthy, except this, there are no other material records implicating the petitioner in this case proceedings. Therefore, the prosecution proceedings against this petitioner in C.C.No.787 of 2020 may be quashed.

4. In support of his arguments, the learned counsel has relied on the following citations:

i) (2011) 3 SCC 581 in Radheshyam Kejriwal /v/



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State of West Bengal & Anr.

**ii) (2020) 9 SCC 636 in Ashoo Surendranath
Tewari /vs/ DSP, EOW, CBI and Anr.**

**iii) Judgment of the Hon'ble High Court of
Madras in Crl.O.P.No.1690 of 2022, dated 20.07.2022 in
the case of S.S.Shahul Hameed /v/ The Chief
Enforcement Officer. Enforcement Directorate, Chennai.**

**iv) Judgment of Hon'ble High Court of Madras in
Crl.O.P.No.5392 of 2023 dated 17.08.2023 in the case of
N.Balasubramanian /vs/ State rep. by Inspector of
Police, CBI/SPE/ACB, Chennai.**

**v) Judgment of Hon'ble High Court of Madras in
Crl.O.P.No.23367 of 2023 dated 13.12.2023 in the case of
N.Periyasamy & 2 Ors. /vs/ CBI, Chennai.**

5. The learned Special Public Prosecutor for Customs appearing for the respondent has submitted that in this case, 1500 pieces of red sanders worth a huge amount were illegally transported to Malaysia by A1/John Alexander, who is the owner of Freedom Impex. A1 clearly gave a



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confession statement about the involvement of this petitioner, particularly mentioning the name and also the conversation over phone. Though the petitioner claims that he contacted A1 only regarding marriage alliance, the CDR (Call Details Reports) of the mobile phones of both A1 and the petitioner on the relevant dates will prove the involvement of the petitioner in the crime. Moreover, the co-accused/A1 has specifically mentioned the name of the petitioner, who supplied the red sanders in question, which are banned items, to transport to Malaysia illegally and he also identified the photo of the petitioner. Eventhough it is given before the Jailor, it would be decided either admissible or inadmissible only after full-fledged trial by the trial Court, the same cannot be decided in this petition. The petitioner has filed the discharge petition before the trial Court and the same was dismissed, thereafter, he has not preferred any revision. Therefore, the trial was commenced, the respondent side examined the witnesses, so far five witnesses were examined. After dismissal of the discharge petition, the quash petition on the same reasons is not maintainable. The petitioner is adopting all kinds of proceedings with a view to drag on the proceedings. Of course, the Division Bench of this Court allowed CMA, which is arisen out of adjudication proceedings, that CMA was allowed only on technical ground,



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in that CMA, this Court has not concluded that the petitioner is innocent.

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Inasmuch as the civil order passed in CMA will not be a bar to the prosecution proceedings U/s.108 of the Customs Act, which is deemed to be a judicial proceeding. Therefore, this petition has no merit to quash the judicial proceedings in C.C.No.737 of 2020 on the file of the Additional Chief Judicial Magistrate Court, Madurai and this petition is liable to be dismissed.

6. Heard and perused the available records. It is seen from the records that the petitioner was holding a license to trade and export red sander wood in the name of NKR Corporation, Chennai. The respondent alleged that A1-John Alexandar made an illegal transport of prohibited item of red sanders weighing 1.690 MTs in consignment of gypsum boards under shipping bill No.1590098, dated 24.03.2006, under the name of Freedom Impex, Tirunelveli, to Malaysia, which was recovered by the respondent in the presence of witnesses. It is also alleged that A1-John Alexandar gave statements between 24.03.2006 and 26.03.2006 saying that the petitioner instigated him to illicit export of the said red sander wood, so the petitioner was arrayed as A2 and after thorough investigation, the respondent has filed



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a complaint U/s.135(1) of the Customs Act before the Additional Chief Judicial Magistrate Court, Madurai on 20.10.2020. The case was taken on file as C.C.No.737 of 2020 and the same is pending.

7. It is the definite stand of the petitioner that the implication of the petitioner only on the basis of alleged confession statement of the co-accused is inadmissible by relying on various judgments of the Hon'ble Supreme Court and High Courts. It is further alleged that upon the same alleged confession statement of co-accused, the respondent has also initiated adjudication proceedings U/s.124 of Customs Act against the petitioner imposing penalty by issuing show cause notice, which was affirmed by CESTAT, South Zonal Bench, Chennai, but he preferred the appeal in CMA(MD)No.944 of 2016 before this Court, which was allowed by this court by observing that on the basis of confession statement of accused penalty imposed is not correct. The respondent side submitted that the order in CMA was passed on technical grounds and there is no conclusion by the Court that the petitioner is innocent, moreover, the order passed in CMA will not bear any consequence in criminal case. The finding made in the adjudication proceeding is not conclusive for the criminal case.



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8. On perusal of judgment relied on by the petitioner's counsel reported in **(2011) 3 SCC 581 Radheshyam Kejriwal Vs. State of West Bengal and Another**, when a similar issue arose under Foreign Exchange Regulation Act, 1973 for the consideration of Hon'ble Supreme Court, as to the continuance of criminal proceedings after completion of adjudication proceedings. It was observed as follows:

"26. We may observe that the standard of proof in a criminal case is much higher than that of the adjudication proceeding. The Enforcement Directorate has not been able to prove its case in the adjudication proceedings and the appellant has been exonerated on the same allegation. The appellant is facing trial in the criminal case. Therefore, in our opinion, the determination of facts in the adjudication proceeding cannot be said to be irrelevant in the criminal case. In the case of B.N. Kashyap (Supra), the full Bench had not considered the effect of a finding of fact in a civil case over the criminal cases and that will be evident from the following passage from the said judgment :

"... I must, however, say that in answering the question, I have only referred to civil cases where the actions are in personam and not those where the proceedings or actions are in rem. Whether a finding of fact arrived at in such proceedings or actions would be



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relevant in criminal cases, it is unnecessary for me to decide in this case. When that question arises for determination, the provisions of [Section 41 of the Evidence Act](#), will have to be carefully examined.

*28. Mr. Malhotra submits that the finding recorded in the adjudication proceedings is not binding on the criminal proceeding as both the cases have to be decided on the basis of the evidence therein. Reliance has been placed on a decision of this Court in the case of *Iqbal Singh Marwah v. Meenakshi Marwah* (2005) 4 SCC 370, relevant portion whereof reads as follows :-*

"32. Coming to the last contention that an effort should be made to avoid conflict of findings between the civil and criminal courts, it is necessary to point out that the standard of proof required in the two proceedings are entirely different. Civil cases are decided on the basis of preponderance of evidence while in a criminal case the entire burden lies on the prosecution and proof beyond reasonable doubt has to be given. There is neither any statutory provision nor any legal principle that the findings recorded in one proceeding may be treated as final or binding in the other, as both the cases have to be decided on the basis of the evidence adduced therein....".



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9. From the above judgment, it is very clear that adjudication proceedings and criminal proceedings can be launched simultaneously and they are independent in nature to each other. An adjudication proceeding cannot automatically bind a prosecution proceeding. They are independent and can run in parallel. The Hon'ble Supreme Court and this Court have reiterated the same in many cases and also affirmed that criminal cases have a higher standard of proof and can continue even if adjudication proceedings result in penalties being overturned on technical grounds. Criminal cases have to be proved beyond reasonable doubt, while adjudication proceedings operate on a lower standard of balance of probabilities. Therefore, the adjudication proceedings are not binding on the proceedings for criminal prosecution, as rightly argued by the learned counsel for the respondent.

10. On perusal of records, even according to the petitioner, the petitioner has filed a discharge petition in Crl.M.P.No.992 of 2022 before the Additional Chief Judicial Magistrate Court, Madurai and the same was dismissed on merits on 08.11.2023 on the ground that there are prima facie materials found. The petitioner has not stated that he has challenged the rejection of the discharge petition by preferring any appeal or a revision



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before the appropriate Forum. On perusal of material records, it is clear that though initially the petitioner stated that he did not know the A1 John Alexander, later he admitted his contacts with A1 John Alexander with regard to his daughter's alliance. The petitioner has also admitted the business transactions with A1. The respondent agency collected CDRs of cell phones of both accused during the relevant period and produced the same along with the complaint. Moreover, the A1 John Alexander clearly identified the petitioner, even by way of photo. Of course, the statement might be recorded before the Jailor, but that statement is not his first statement, he has already given a few statements before the respondent investigating officer, mentioning the alleged transport of red sander wood at the instigation of the petitioner. So, it is not the time to decide whether the alleged confession statement of A1 is acceptable or not, however, the same can be decided only after fullfledged trial by the trial Court. Therefore, the trial Court has rejected the discharge petition on merits. Only thereafter, the petitioner has filed this petition seeking for quash. Moreover, the respondent has submitted that on respondent's side has examined five witnesses, almost completing the evidences, hence the respondent's counsel submitted that at this stage, this quash petition is not maintainable.



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11. At this juncture, it is relevant to quote certain judgments of the Hon'ble Supreme Court and this Court. The Hon'ble Supreme Court in the case of ***State of Maharashtra v. Maroti***, reported in **2023 4 SCC 298**, has held that the quashment of the proceeding under Section 482 of Cr.P.C., upon testing veracity in the statement recorded under Section 161 of Cr.P.C., is unjustified. Apart from that, as laid down by Three Judges Bench of the Hon'ble Supreme Court in the case of ***Amar Chand Agarwalla v. Shanti Bose and Anr.*** reported in **AIR 1973 SC 799** after examination of the number of witnesses, the quash petition cannot be entertained and also after dismissal of the discharge petition, no further adjudication is necessary in this quash petition for the reason that the trial Court found sufficient prima facie material to frame the charges against the petitioner and continue the trial.

12. 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 Investigation 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



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

13. The Principal Seat of Madras High Court in **Crl.R.C.No.337 of 2020 & Crl.M.P.No.2569 & 2570 of 2020** in the case of **Subramaniyan /vs/ Revathi** has held as follows:

"2. The grounds that have been raised by the learned counsel for the petitioners is purely factual in nature and it is seen from records that the petitioners had already filed a discharge petition and the same



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was dismissed by an order dated 14.10.2019. Thereafter, the present quash petition has been filed before this Court. Even though a quash petition can be maintained, even after the dismissal of the discharge petition, considering the facts and circumstances of the case, this court is not inclined to entertain this quash petition, since it involves appreciation of facts and this Court cannot go into the same in exercise of its jurisdiction under Section 482 of Cr.P.C. It is left open to the petitioners to raise these grounds before the Court below and the Court below shall consider the same on its own merits and in accordance with law."

14. In view of the above rulings, it is clear that after dismissal of discharge petition and also after examination of witnesses, the petition for quash is not maintainable. The petitioner can very well agitate the points raised in this quash petition before the trial Court while deciding the matter by the trial Court after full-fledged trial. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.787 of 2020 on the file of the learned Additional Chief Judicial Magistrate, Madurai.



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15. In the result, the Criminal Original Petition is dismissed.

Consequently, the connected Criminal Miscellaneous Petition is closed.

22.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Additional Chief Judicial Magistrate,
Madurai.
- 2.The Assistant Commissioner of Customs (Prosecution),
Office of the Commissioner of Customs,
Custom House, New Harbour Estate,
Tuticorin – 628 004.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.O.P(MD).No.23518 of 2023
and
Crl.M.P(MD)No.18304 of 2023

22.10.2025