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Crl.O.P.Nos.17104 & 22812 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2026

CORAM:

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

Crl.O.P.Nos.17104 & 22812 of 2023 and
Crl.MP.Nos.15965, 15966, 10986 & 10988 of 2023

Crl.OP.No.17104 of 2023

R.Natarajan

... Petitioner

Vs.

1.INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, CUDDALORE.

2.MUDIKONDAN @ P.SENTHIL KUMAR

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records in CC.No.12 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate-I, Kattumannarkoil, Cuddalore and quash the same.

For Petitioner : Mr.Manuraj

For Respondents

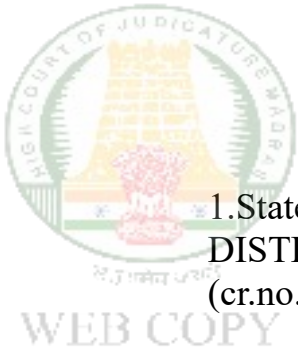
For R1 : Mr.A.Gopinath,
Government Advocate(crl.side)

Crl.OP.No.22812 of 2023

R.Sarasa

... Petitioner

Vs.



Crl.O.P.Nos.17104 & 22812 of 2023

1.State Rep. By INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, CUDDALORE.
(cr.no.31/2010)

2.MUDIKONDAN @ P.SENTHIL KUMAR

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the case in CC.No.12 of 2016 pending trial on the file of the learned District Munsif Cum Judicial Magistrate, Kattumannarkoil, Cuddalore District and quash the same.

For Petitioner : Mr.Manuraj

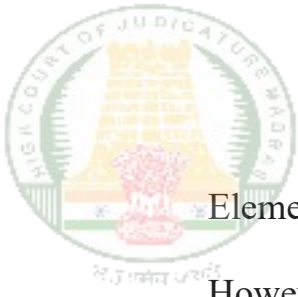
For Respondents

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

COMMON ORDER

Both the criminal original petitions have been filed to quash the proceedings in CC.No.12 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate-I, Kattumannarkoil, Cuddalore.

2. The case of the prosecution is that the second accused was selected by the Tamil Nadu Teachers Recruitment Board on 05.08.2010 as Graduate Teacher. The Director of Directorate of Elementary Education, Tamil Nadu vide his order in Na. Ka. No. 26555/T1/2010 allotted the position of Science Teacher at PU Middle School, Vanama Devi contingent to the issuance of an appointment order by the District



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Elementary Education Officer (A-3) after due verification on 15.09.2010.

However, Accused No. 2 was suffering from CAV/Right Hemisphere /Type II Diabetes Mellitus and was admitted in Raja Muthiah Medical College and Hospital, Chidambaram from 11.09.2010 to 09.10.2010 as in-patient and, as a result of which, he could not appear before the District Elementary Education Officer on 15.09.2010. It is the case of the prosecution that in order to secure the allotment/ appointment for Accused No. 2, Accused No. 1 and 2 along with A6 conspired for Accused No. 1 who had the qualification of B.Sc., M.Ed. to impersonate as Accused No. 2. and that Accused No. 3, 4, and 5 aided in execution of the necessary orders. As such, after Accused No. 1 worked for five days from 20.09.2010 -24.09.2010, he proceeded to go on medical leave from 04.10.2010.

3. On the complaint lodged by the second respondent, the first respondent registered FIR in crime No.31 of 2010 for the offence under Sections 419, 420 & 109 of IPC. After completion of investigation, final report was filed and the same was taken cognizance by the trial court for the offence under Sections 419, 420, 109 r/w 120(b) of IPC.



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4. The learned counsel for the petitioners would submit that both the petitioners are arrayed as A3 and A6. They have nothing to do with the crime as alleged by the second respondent. There is absolutely no allegation against them. He further submits that the third accused is the Headmistress of the Panchayat Union Middle School, Vanamadevi, Kattumannarkoil and the sixth accused is the Headmaster of the Panchayat Union Primary School, Pattikollai, Kattumannarkoil. Even according to the second respondent, there is absolutely no specific allegation against them to attract any of the offences. In order to prosecute the petitioners, the first respondent ought to have obtained prior sanction as contemplated under Section 197 of Cr.P.C. In the case on hand, admittedly the first respondent did not obtain any sanction to prosecute the petitioners since the offence was allegedly committed by them during the time they were discharging their official duties. Therefore, the trial court ought not to have taken cognizance on the final report filed by the first respondent. Further, both the petitioners absolutely did not play any role in any of the fraudulent orders or the alleged impersonation by the first accused.

5. Per contra, the learned Government Advocate(crl.side) appearing for the first respondent submitted that on the complaint lodged

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by the second respondent, the first respondent registered FIR in crime No.31 of 2010 and after completion of investigation, final report was filed and the same was taken cognizance by the trial court. The second accused was appointed as Teacher and he fell ill. In the place of the second accused, the first accused impersonated him and joined as Teacher in the place of the second accused. Thereafter, he went on leave. Therefore, the other accused are being the officials of the Education Department, they also conspired together with the other accused persons and committed offence. There are specific averments and allegations against the accused and as such, the same cannot be considered under Section 482 of Cr.P.C.

6. On perusal of the records, it is revealed that there are totally six accused, in which A2 & A4 died. Both the petitioners are arrayed as A3 and A6. On the complaint lodged by the second respondent, the first respondent registered FIR and after completion of investigation, final report was filed. The learned counsel for the petitioners vehemently contended that the first respondent failed to obtain any sanction before initiation of prosecution against the Government officials. Even according to the case of the prosecution, the petitioners being officials of the Education Department, permitted the first accused to join duty as

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Teacher in the place of the second accused by impersonation. Therefore, the alleged offence was committed by them while discharging their duties. Therefore, sanction under Section 197 of Cr.P.C. is very much required to prosecute the officials under the Indian Penal Code. Teachers are coming under the definition of public servant under Section 21(12) of IPC and the alleged offence was committed by them while discharging their official duties. Therefore, as per the mandatory requirement under Section 197 of Cr.P.C, failure to obtain prior sanction ought to have prohibited the trial court to take cognizance of the final report filed by the first respondent.

7. Further, it is well settled principle of law that Section 109 and 120(b) of IPC cannot be arrayed together since the provision under Section 120A forms part of Section 107 (2) of IPC and the punishment for both Sections 109 and 120(b), though an independent offence carries the same sentence as that of the offence committed by the accused. Further, as far as the petitioners are concerned, they had no role in any of the fraudulent offence allegedly committed by the first and second accused herein. Merely the fourth accused who held the office of the District Elementary Education Office, Cuddalore and he handed the appointment of the second accused cannot attribute any offence and it

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would not amount to abetting or conspiring in furtherance of any common design. Therefore, the failure of the prosecution to get previous sanction as contemplated under Section 197(1) of Cr.P.C. has vitiated the entire proceedings initiated against the accused. Insofar as the first accused is concerned, he allegedly impersonated the second accused and joined as Teacher. However, immediately he went on medical leave. Now, the second accused, the main person who got appointment to the post of Teacher, died. Therefore, there is nothing else to prosecute the first accused. Further, the second respondent is none other than a murder case accused. In order to wreak vengeance against the second accused, compliant has been foisted though the complainant had no locus to set the criminal law in motion. He is a habitual offender and now he has been convicted for the offence punishable under Section 302 of IPC in SC.No.181 of 2012 order dated 29.06.2014 on the file of the II Additional District and Sessions Judge, Chidambaram in respect of crime No.303 of 2011 on the file of the Inspector of Police, Shozhatharam Police Station, Cuddalore. Further, the present crime is of the year 2010 and the case was taken cognizance by the trial court in the year 2016. However, it is pending for the past 16 years without any progress. Therefore, the entire proceedings would not serve any purpose. As such, in order to meet the ends of justice, this court is inclined to quash the entire impugned

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proceedings against all the accused persons.

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8. Accordingly, the entire impugned proceedings in CC.No.12 of 2016 on the file of the learned District Munsif Cum Judicial Magistrate-I, Kattumannarkoil, Cuddalore is quashed in respect of all the accused persons and both the criminal original petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

25.03.2026

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

Note: Issue order copy on 15.04.2026



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To

1.The learned District Munsif Cum Judicial Magistrate-I,
Kattumannarkoil, Cuddalore

2.INSPECTOR OF POLICE,
DISTRICT CRIME BRANCH, CUDDALORE.
The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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