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CrI.O.P.No.17946 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2026

CORAM:

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

CrI.O.P.No.17946 of 2023 and
CrI.MP.No.11845 of 2023

M.Parasuraman

... Petitioner

Vs.

1.State rep by
The Inspector of Police,
EDF-II, Team-II,
CCB, Chennai
2.N.Sabari Ganesh

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records and to quash the proceedings pending in CC.No.4407 of 2023 on the file of the learned Metropolitan Magistrate Special Court for Trial of CCB & CB CID Cases, Egmore, Chennai.

For Petitioner : Mr.S.Suresh

For Respondents

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

For R2 : Mr.C.Munusamy

ORDER

This criminal original petition has been filed to quash the proceedings in CC.No.4407 of 2023 on the file of the learned



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Metropolitan Magistrate Special Court for Trial of CCB & CB CID

Cases, Egmore, Chennai

2. The case of the prosecution is that the defacto complainant is one, Sabariganesh who is in the business of running hotels, restaurants, resto-bars for more than 10 years. The 2nd respondent was approached by Accused No. 1 in the month of November 2018, who introduced himself as the Director of M/s Benze Vacations Club Public Limited (Accused No.5) and represented that he was also running a group of Clubs in and around Chennai. It is further alleged that Accused No. 1 had represented to the 2nd respondent that he is having a good commercial space in Egmore, Chennai and he was looking for business opportunities to invest in the said space. During the same period, the 2nd respondent was on search for a suitable space in Chennai to start a resto-bar in the name and style of "OH THAT PLACE" a brand of M/s Alpha Hotels & Restaurants with a view in expanding the said business in Chennai in furtherance to which the said Accused No. 1 convinced the 2nd respondent that his space is located at a prime location of Chennai and it would be most suitable for the purpose of starting the business of the 2nd respondent. Based on the representation of the said Accused No. 1 and believing the same to be true, the 2nd respondent visited the said place along with him



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and after seeing the said space, he said that the space was quite spacious and as it was not furnished, it also required a lot of interior works to be done. Despite the above, Accused No. 1 with his sweet-coated words had made the 2nd respondent to invest in the said commercial space. It is further alleged that Accused No. 1 also assured the 2nd respondent that he is in possession of 'FL2 License' which is an essential license issued under the Tamil Nadu Liquor (Licence and Permit Rules, 1981) to run a Restro-bar. Accused No. 1 also represented that he would facilitate the 2nd respondent in the conduct of business in Chennai by obtaining franchise for the 2nd respondent business and he also promised to pay royalty for the same to the 2nd respondent. Pursuant to the same, he had borrowed a loan of Rs.60,00,000/-from the 2nd respondent for the interior works in the said building, Rs.10,00,000/-towards security deposit for franchise and another Rs. 10,00,000/- towards franchise fee. The said amounts were also, as requested by the Accused No. 1, transferred to his company, M/s Benze Vaocations Public Limited (Accused No. 5).

3. The further case of the prosecution is that a Franchise Agreement dated 14.01.2019 was entered into between the 2nd respondent and M/s Benze Vacations Public Limited represented by its Director, Accused No. 1, in which the borrowed amount of

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Rs.80,00,000/-was recorded in the said Agreement and the said amount

was also agreed to be repaid in 20 equal monthly instalments by him from the date of the said Agreement dated 14.01.2019. Further, Accused No. 1 also furnished post-dated cheques to the 2nd respondent for the said 20 equal monthly instalments as security for repayment of the said borrowed amount from the petitioner. But for the reason best known to A-1, he had failed to commence the said business in the said place even after completion of the interior works. On enquiry of the same with Accused No.1, he replied that the process of renewal of the FL2 License is going on and that the said business would commence immediately on the receipt of the said FL2 license. Believing the words of A-1, the 2nd respondent had deposited the three cheques given by him towards the first instalment which were honoured. However, all the subsequent cheques to an amount of Rs.4,00,000/- presented every month from then on, were dishonoured due to insufficient funds in his account. While the facts being so, to the shock and surprise of the 2nd respondent, he came to know the said property at Egmore was not Accused No. 1's own property and he had taken the said property for lease and further he had sub-leased the property to one, Ashok and he had collected some money from the said Ashok. Suppressing all these facts fraudulently and dishonestly, A-1 in this case had made the 2nd respondent to invest a sum of Rs.80,00,000/-



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in the said property. It is submitted that Accused No. 1 fraudulently entered into a memorandum of understanding with other businessmen showing the said renovated commercial space for the purpose of running a Restro-bar under the petitioner's brand name and he had also embezzled huge funds from them as well. It is further alleged that the 2nd respondent used to meet one, Chinnaiyan Saravanan at his branch office of M/s Benze Vacations Club Public Limited, situate at No. 781, Rayala Towers, 2nd Floor, Anna Salai, Chennai-600002 to get back the above mentioned amount Rs.80,00,000/-. He, with an intention to deceive the 2nd respondent, avoided the 2nd respondent phone calls and also closed his office at Rayala towers. When the petitioner enquired about Accused No. 1, to a great shock, he came to understand that A-1 closed his office and now in the government website also it shows as struck off. Aggrieved over the same, the 2nd respondent lodged the complaint before the 1st respondent police on 14.11.2019. On enquiry the 2nd respondent came to know that A-1 had several criminal complaints pending against him. The complaint of the 2nd respondent was enquired by the 1st respondent police but however it was closed vide report dated 09.01.2020 stating that "the 2nd respondent and the said Chinnaiyan Saravanan are bound by an arbitration clause in the franchise Agreement dated 14.01.2019 and also since there is an existing NCLT dispute, a criminal case in the present

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dispute does not lie." Aggrieved over the above closure report, the 2nd respondent filed a petition u/s. 156(3) Cr.P.C before the Learned Metropolitan Magistrate Special Court for Trial of CCB & CB-CID Cases, Egmore, Chennai in [Crl.M.P.No. 9496 of 2020](#). After hearing both side arguments, the Learned Magistrate passed an order dated 20.10.2020 directing the 1st respondent police to register FIR, pursuant to which case was registered in crime No. 48 of 2021 for the offence u/s.406 & 420 IPC. After completion of investigation, charge sheet was filed before the Learned Metropolitan Magistrate Special Court for Trial of CCB & CB-CID cases, Egmore, Chennai and the same has been taken on file in [C.C.No.4407 of 2023](#)

4. The learned counsel appearing for the petitioner would submit that all the allegations are made only against the first accused and the petitioner/A3 is no way connected with the allegations against the first accused and no one has spoken about any overt act of the petitioner. Hence, he prayed to quash the impugned proceedings.

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



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6. Heard the learned Counsel appearing on either side and perused the materials placed on record.

7. On perusal of the records and also on the submissions of the learned counsel appearing on either side, it is revealed that so far more than 25 complaints have been lodged against the petitioner. The *modus operandi* of the petitioner is that after collecting money from various persons, he cheated them. That apart, the witnesses have spoken about the specific overt act of the petitioner to attract the offences under Sections 406 & 420 r/w 34 IPC

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 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

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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.

9. 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.

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 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



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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 as to whether that 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 grounds raised by the petitioner to quash the final report/charge sheet cannot be entertained.

12. In view of the above discussion, this Court is not inclined to quash the impugned proceedings. 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.



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13. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected miscellaneous petition is closed.

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

- 1.The learned Metropolitan Magistrate Special Court for Trial of CCB & CB CID Cases, Egmore, Chennai
- 2.State rep by
The Inspector of Police,
EDF-II, Team-II,
CCB, Chennai
- 3.The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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