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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

CORAM

Case QR

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 32936 of 2026 and
CrlM.P.Nos.21660 and 21661 of 2026

CNR: {HCMA012658502026}

Elayaraja
S/o Annamalai,
No.C.36, Murugankoil Street,
OldTown, Vellore,
Vellore District.

..Petitioner(s)

Vs

1. The State Rep By, The Inspector of Police
   Sankarapuram Police Station,
   Kallakurichi District.
   Crime No.250 of 2010.
2. Ayubkhan
   S/o Ibrahim Khan,
   Arasampattu Road,
   Pootai Village, Sankarapuram,
   Kallakurichi District.
   And Also Residing at,
   Baba Malai, Malapuram Village,
   Puthirapttam Post,
   Sankarapuram Taluk,
   Kallakurichi District.

..Respondent(s)

Prayer: This petition has been filed under section 528 of BNS to call for the records in SC.No.341 of 2021 on the file of the Subordinate Court at Sankarapuram Kallakurichi and quash the same and pass such further orders.

For Petitioner(s): Mr. M.Sathish Kumar
For Respondent(s): MR.R.Ganesh Kumar, Additional Public Prosecutor for R1

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ORDER

This petition has been filed to quash the proceedings in S.C.No.341 of 2021 pending on the file of the Subordinate Court at Sankarapuram, Kallakurichi District.

2.The case of the prosecution is that the petitioner and the second respondent are neighbours and there was some boundary dispute between them. Due to which a suit was initiated in O.S.No.115 of 1997 and the same is pending. The complainant further states that on 13.05.2010 the villagers had gathered and demolished the fencing. With regard to the said occurrence the second respondent lodged a complaint before the first respondent and the same was registered in Crime No.250 of 2010. On completion of investigation, the first respondent filed a final report and the same has been taken cognizance by the trial Court in S.C.No.341 of 2021 on the file of the Subordinate Court at Sankarapuram, Kallakurichi District for the offences punishable under Sections 147.148.296(b),447,427 and 506(ii) of IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act. To quash the said proceedings, the present petition has been filed.

3. The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as

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alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.250 of 2010. for the offences under Sections 147.148.296(b),447,427 and 506(ii) of IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act as against the petitioner and the same has been taken cognizance in S.C.No.341 of 2021 on the file of Subordinate Court at Sankarapuram, Kallakurichi District. Hence he prayed to quash the same.

4.The learned additional Public Prosecutor would submit that the trial has been commenced and some of the witnesses have been examined in this case.

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

6. On perusal of the impugned final report and the statements of the witnesses, it is revealed that there are specific allegations against the petitioners, which are sufficient to attract the offences under Sections 147.148.296(b),447,427 and 506(ii) of IPC r/w Section 3 of Tamil Nadu Property (Prevention of Damage and Loss) Act. The veracity of the allegations can be determined only at the stage of trial, upon the appreciation of evidence. The grounds raised by the petitioners involve disputed questions of fact, which

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cannot be adjudicated at this stage.To quash the said criminal proceeding, the petitioner filed the present petition.

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./180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. 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

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ingredients that consititue 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 consititue 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.

9. Further, this Court cannot observe at this stage as to 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.

10. In view of the above discussion, this Court is not inclined to quash the proceedings in S.C.No.341 of 2021 on the file of the Subordinate Court at Sankarapuram, Kallakurichi District. The petitioner is at liberty to raise all the grounds before the trial Court. The personal appearance of the petitioner is dispensed with and he shall be represented by a counsel after filing appropriate application. However, the petitioner shall be present before the Court at the time of furnishing of copies, framing charges, questioning under Section 351 of BNSS and at the time of passing judgment. The trial Court is directed to complete the trial within a period of three months from the date of receipt of copy of this Order.

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

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

SMN
To.

1. The Subordinate Court at Sankarapuram, Kallakurichi District.

2. The Inspector of Police
Sankarapuram Police Station,
Kallakurichi District.

3. The Public Prosecutor,
High Court, Madras

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G.K.ILANTHIRAIYAN, J.

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