



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2026

CORAM

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

**Crl.O.P.(MD).No.1652 of 2024
and
Crl.M.P(MD).Nos.1165 and 1167 of 2024**

Subbiah

... Petitioner

Vs.

1.State rep., by
The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.

2.Vijayan Mathamadakki

.. Respondents

PRAYER: This Criminal Original Petition has been filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records relating to the impugned complaint in C.C.No.914 of 2022 on the file of the learned Judicial Magistrate, Karaikudi and quash the same.

For Petitioner : Mr.V.R.Shanmuganathan

For R1 : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

Seeking quashment of the charge sheet laid in C.C.No.914 of 2022 pending on the file of the learned Judicial Magistrate, Karaikudi, this criminal original petition is filed.

2.The learned counsel for the petitioner submitted that on the complaint lodged by the second respondent as against petitioner, a First Information Report in Crime No.615 of 2017 has been registered for the offences under Sections 417, 420 and 15(3) of IPC and the same has culminated in laying a charge sheet in C.C.No.914 of 2022 on the file of the learned Judicial Magistrate Karaikudi. However, he fairly conceded that in this case trial has been commenced, L.W.1 and L.W.2 were examined as P.W.1 and P.W.2 and further posted for examination of L.W.3 and L.W.4. He further submitted that the petitioner served in the Army for 40 years and retired with an unblemished service record. The petitioner is presently 80 years old and has received several awards in recognition of his service. It was further contended that, being a Nursing Assistant, the petitioner is legally entitled to possess medical



instruments. In the present case, the FIR was registered solely on the allegation that the petitioner was in possession of certain medical instruments, and subsequently, a charge sheet was filed. Hence, the continuation of the proceedings is unsustainable in law and the same is liable to be quashed

3.The learned Government Advocate (Crl.side), on instructions, submitted that in this case L.W.1 and L.W.2 were examined and posted for examination of L.W.3 and L.W.4.

4.Heard the learned counsel on either side and carefully perused the materials available on record.

5.A careful reading of the petition and the very submissions of the learned counsel for the petitioner itself would indicate that in this case already P.W.1 and P.W.2 were examined and as many documents were also being marked through P.W.1. As substantial evidence has



already come on record and the documents have also been marked through P.W.1, this Court cannot, at this stage, conduct a mini-trial. While exercising its jurisdiction under Section 528 of the BNSS, this Court is not empowered to undertake a roving enquiry or a mini-trial, as held by the Hon'ble Supreme Court in **Gunmala Sales Pvt. Ltd vs Anu Mehta & Ors**, reported in **2015 (1) SCC 103**. Hence, this Court is not inclined to quash the proceedings. Accordingly, the Criminal Original Petition is dismissed. The trial Court is directed to expedite the trial in C.C.No.914 of 2022 as expeditiously as possible and conclude the same within a period of 6 months from the date of receipt of a copy of this order.

6.Considering the age of the petitioner, his appearance is dispensed with on conditions that he shall appear at the time of initial questioning, proceedings under Section 313 Cr.P.C., / 351 BNSS, and at the time of passing judgment and on all the hearings, specifically directed by the learned Trial Court.



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7. The petitioner shall appear before the Court in the event his presence is insisted by the learned Trial Judge for the purpose of identification. If the petitioner adopt any dilatory tactics, it is open to the learned Trial Court to insist for his appearance and deal with the petitioner in accordance with the law laid down by the Hon'ble Supreme Court of India, in the case of *State of UP vs. Shambunath Singh*¹.

Consequently, connected Miscellaneous Petitions are closed.

27.01.2026

NCC : Yes/No
Index : Yes / No
Rmk

To

1. The Judicial Magistrate, Karaikudi .
2. The Inspector of Police,
Karaikudi North Police Station,
Sivagangai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

¹ 2001 (4) SCC 667



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L.VICTORIA GOWRI,J.,

Rmk

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