



Crl.OP(MD)No.2353 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.2353 of 2024

and

Crl.M.P(MD).Nos.1814 and 1815 of 2024

Lalith Infanta

... Petitioner / Sole Accused

Vs.

1.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
Crime No.457 of 2014

2.Ramlal

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.1046 of 2022 on the file of the learned Judicial Magistrate No.III, Nagercoil, and quash the same as against the petitioner.

For Petitioner : Mr.T.Arul

For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl.side)

For R2 : No appearance



Crl.OP(MD)No.2353 of 2024

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ORDER

Preface:

This Criminal Original Petition has been filed seeking to quash the final report laid in C.C.No.1046 of 2022 on the file of the learned Judicial Magistrate No.III, Nagercoil.

2. The petitioner is the sole accused in the said calendar case. The prosecution alleges that while functioning as Panchayat Secretary, the petitioner had misappropriated a total sum of Rs. 1,19,358/- belonging to Pallamthurai Panchayat, in relation to four cheque transactions said to have taken place during the years 2012 and 2013.

3. Invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the petitioner seeks quashment of the charge sheet on the ground that the criminal prosecution is manifestly vexatious, factually unsustainable, and engineered by making the Panchayat Secretary a scapegoat while the elected office bearers, who had actually operated



Crl.OP(MD)No.2353 of 2024

the Panchayat finances, have been excluded from the array of accused.

Case of the prosecution:

4. The prosecution case, in brief, is that the petitioner, in his capacity as Panchayat Secretary, had dishonestly encashed four cheques issued in the name of works to be carried out in the Panchayat and thereafter failed to disburse the amounts for the intended purposes. According to the prosecution, on the first occasion, the petitioner collected a cheque bearing No.376574 dated 29.03.2012 for a sum of Rs.41,549/-, which had been issued by the President and Vice-President of Pallamthurai Panchayat.

5. On the second occasion, the petitioner is said to have withdrawn a sum of Rs.40,104/- through a self cheque bearing No. 376675 dated 31.03.2012, also issued by the President and Vice-President of the Panchayat. On the third occasion, the petitioner is alleged to have collected another cheque bearing No.376598 dated 30.05.2012 for a sum of Rs.26,955/-. On the fourth occasion, the



Crl.OP(MD)No.2353 of 2024

petitioner is said to have collected a cheque bearing No.772869 dated 28.03.2013 for a sum of Rs.10,750/-.

6. The accusation is that after encashing the aforesaid cheques, the petitioner failed to apply the funds for the purposes for which they were sanctioned, namely:

- (i) repair of public pipe, tap and gate valve;
- (ii) procuring street light materials, bleaching powder and lime powder;
- (iii) purchasing street light materials; and
- (iv) procuring bleaching powder and lime powder.

7. On the above allegations, a case was registered in Crime No. 457 of 2014 on the file of the first respondent police. Upon completion of investigation, the final report came to be filed and taken on file in C.C.No.1046 of 2022 by the learned Judicial Magistrate No.III, Nagercoil, for offences under Sections 409 and 420 of the Indian Penal Code.



Crl.OP(MD)No.2353 of 2024

WEB COPY

Grounds for quash:

8. The principal contention of the petitioner is that he was only the Panchayat Secretary, namely, the lowest echelon functionary in the village administration, and that the actual control over the Panchayat finances vested with the elected office bearers, namely, the President and the Vice-President.

9. It is the specific case of the petitioner that the cheques in question were not issued by him, but were issued only by the President and the Vice-President after the passing of resolutions in the Panchayat Board meetings. According to the petitioner, his role was confined to presenting such cheques before the concerned bank for collection.

10. The petitioner would further contend that after the amounts were withdrawn, the same were handed over to the President and the Vice-President, who were managing the affairs of the Panchayat and who alone were responsible for the utilisation of the funds.



Crl.OP(MD)No.2353 of 2024

WEB COPY

11. The learned counsel for the petitioner would place heavy reliance on the affidavit filed by the erstwhile President of the Panchayat, namely, Maria Purosh, in W.P.(MD).No.9256 of 2014, wherein it is stated that the cheques were issued by the President and Vice-President, that the accounts had been duly cross-checked, and that there was in fact no misappropriation in the Panchayat.

12. It is also pointed out that pursuant to an audit objection, the District Collector, Kanyakumari District, in proceedings dated 28.05.2014 in Na.Ka.No.A4/193/2013, had initiated proceedings under Sections 205(1)(a) and 206(1) of the Tamil Nadu Panchayats Act, 1994 only as against the President and Vice-President, thereby indicating that the District Administration itself had fixed responsibility on the elected office bearers and not on the petitioner.

13. Yet another limb of the argument is that despite the existence of such materials, the first respondent police have chosen not to array the President and Vice-President as accused, but have instead included them as witnesses and built the entire prosecution case solely against the petitioner. The petitioner would therefore



Crl.OP(MD)No.2353 of 2024

submit that the charge sheet is vague, bald, fundamentally unfair, and a clear abuse of process, warranting interference by this Court.

Submissions on the side of the petitioner:

14. The learned counsel for the petitioner submitted that the petitioner is being prosecuted solely because he happened to be the Panchayat Secretary at the relevant point of time. It was contended that every cheque had admittedly been issued only after resolutions were passed by the Panchayat and that the cheques were jointly signed by the President and the Vice-President. The petitioner had neither authority to sanction expenditure nor authority to unilaterally operate Panchayat funds.

15. The learned counsel further submitted that the entire foundation of the prosecution is self-contradictory. On the one hand, the former President has filed an affidavit before this Court in W.P. (MD).No.9256 of 2014 stating that there was no misappropriation and that the cheques had been properly accounted for. On the other hand, the same office bearers have given statements under Section



Crl.OP(MD)No.2353 of 2024

161(3) Cr.P.C., 1973, before the police attempting to fasten the entire liability on the petitioner.

16. The learned counsel would emphasize that the petitioner has been singled out and made a scapegoat while the principal actors, namely, the President and Vice-President who had signed the cheques and controlled the Panchayat administration, have been shielded from prosecution.

17. It was also argued that the action initiated by the District Collector under the Tamil Nadu Panchayats Act, 1994, against the President and Vice-President clearly demonstrates where the real responsibility lay. Hence, the criminal prosecution against the petitioner alone is not merely weak, but inherently malicious and unsustainable. On the above grounds, the learned counsel sought quashment of the proceedings.



Crl.OP(MD)No.2353 of 2024

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Submissions on the side of the Prosecution:

18. Per contra, the learned Government Advocate (Crl.side) submitted that the offences under Sections 409 and 420 IPC are clearly attracted on the facts of the case. According to the learned Government Advocate, the statements recorded under Section 161(3) Cr.P.C., 1973, from the then President, Maria Purosh and Vice-President, Rejish Mary reveal that it was the petitioner who had approached them on several occasions and induced them to issue cheques under the guise that payments had to be made to persons who had carried out Panchayat works.

19. It was further submitted that after obtaining the signatures of the President and Vice-President on the cheques and encashing them, the petitioner did not make payments to the concerned persons who had completed the works. It is also the prosecution case that when the accounts books were called for, the petitioner did not produce them, but repeatedly stated that the same had been sent for audit.



Crl.OP(MD)No.2353 of 2024

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20. The learned Government Advocate would therefore contend that there are sufficient materials in the final report to proceed against the petitioner and that the disputed questions of fact cannot be adjudicated in a petition filed under Section 528 BNSS. It was lastly submitted that the defence projected by the petitioner can very well be established before the learned trial Court and that this Court, while exercising inherent jurisdiction, ought not to conduct a mini-trial by weighing the rival factual versions.

Point for consideration:

21. In the light of the rival submissions, the point that arises for consideration is as follows:

Whether the continuation of the prosecution against the petitioner in C.C.No.1046 of 2022, in the facts and circumstances of the case, would amount to an abuse of process of Court warranting interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023?



Analysis:

22. This Court has carefully considered the rival submissions and perused the materials placed on record.

23. A plain reading of the charge sheet shows that the allegation against the petitioner is that he had encashed four cheques on different dates and had thereby obtained a total amount of Rs.1,19,358/-. It is also alleged that he had made entries in the accounts of Pallamthurai Panchayat, but failed to disburse the amount for the purposes for which it had been withdrawn. However, this Court cannot examine the charge sheet in isolation and remain blind to the attending circumstances emerging from the record.

24. It is not in dispute that the cheques in question bore the signatures of the President and the Vice-President of the Panchayat. It is also not the prosecution case that the petitioner had the authority to issue cheques on his own. The issuance of every cheque necessarily flowed from the Panchayat administrative structure controlled by the elected office bearers.



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25. More importantly, the materials produced by the petitioner show that in relation to the very same financial irregularities, the District Collector, Kanyakumari District, by proceedings dated 28.05.2014 in Na.Ka.No.A4/193/2013, had initiated action under Sections 205(1)(a) and 206(1) of the Tamil Nadu Panchayats Act, 1994 against the President and the Vice-President, namely, Maria Purosh and Rejish Mary.

26. The significance of this aspect cannot be understated. When the statutory authority, upon audit objection and examination of records, considered it necessary to initiate proceedings only against the President and Vice-President, the later criminal prosecution directed solely against the Panchayat Secretary calls for closer scrutiny.

27. The petitioner has also brought to the notice of this Court the affidavit filed by the President, Maria Purosh, in W.P.(MD).No. 9256 of 2014, wherein she had stated that the cheques were issued by herself and the Vice-President and that no misappropriation had occurred in the Panchayat. This affidavit is of considerable relevance,



Crl.OP(MD)No.2353 of 2024

WEB COPY

not for the purpose of finally adjudicating innocence or guilt, but for testing whether the criminal prosecution, as framed, is fair, bona fide, and consistent.

28. Curiously, the same President and Vice-President, instead of being treated as persons *prima facie* answerable for the transactions, have been shown as prosecution witnesses under Section 161(3) Cr.P.C., 1973, and have attributed the entire blame to the petitioner. This selective prosecutorial approach raises a serious doubt about the fairness of the investigation. The elected office bearers who signed the cheques and were in administrative control have been placed outside the dock, while the Panchayat Secretary alone has been placed in it.

29. The contradiction between the affidavit filed before this Court by the President and the subsequent police statement relied upon by the prosecution is also too glaring to be brushed aside as a mere matter for trial. This contradiction goes to the very root of the bona fides of the prosecution.



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30. In this context, the judgment of the Hon'ble Supreme Court in **Salib @ Shalu @ Salim v. State of U.P. & Ors.**¹, assumes significance. The Hon'ble Supreme Court has held that when an accused approaches the Court seeking quashment on the ground that the prosecution is manifestly frivolous or vexatious or instituted with ulterior motive, the Court owes a duty to examine not merely the recitals in the FIR or complaint, but also the attending circumstances borne out by the record, and, if necessary, to read in between the lines with due care and circumspection.

31. The present case squarely attracts the said principle. This is not a case where the petitioner is merely disputing the truthfulness of the prosecution version on ordinary factual grounds. Rather, the materials placed before this Court reveal that the elected office bearers who signed the cheques and controlled the Panchayat administration were themselves subjected to statutory action by the District Collector, but were subsequently transformed into prosecution witnesses in the criminal case so as to shift the entire burden onto the petitioner.

¹ 2023 (4) MLJ (Crl) 225



Crl.OP(MD)No.2353 of 2024

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32. It is also brought to the notice of this Court that though the District Collector's proceedings removing the President and Vice-President were later quashed by this Court on technical grounds relating to notice, the same does not in any manner dilute the relevance of the fact that the original administrative action had proceeded against the President and Vice-President and not against the petitioner.

33. Therefore, this Court is persuaded to hold that the present prosecution has been launched in a manner that is manifestly unfair and legally suspect. The petitioner appears to have been made a convenient scapegoat in a matter involving financial transactions undertaken through the authority and signatures of the elected Panchayat heads.

34. In such circumstances, relegating the petitioner to undergo the ordeal of a criminal trial would only amount to permitting abuse of process of Court.



Crl.OP(MD)No.2353 of 2024

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35. For all the reasons stated above, this Court is of the considered view that the impugned charge sheet in C.C.No.1046 of 2022 on the file of the learned Judicial Magistrate No.III, Nagercoil, as against the petitioner, cannot be allowed to stand.

36. Accordingly, the proceedings in C.C.No.1046 of 2022 on the file of the learned Judicial Magistrate No.III, Nagercoil, are quashed as against the petitioner.

37. In fine, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions are closed.

17.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

1.The Judicial Magistrate No.III,
Nagercoil.



Crl.OP(MD)No.2353 of 2024

- 2.The Inspector of Police,
Suchindram Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.OP(MD)No.2353 of 2024

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)No.2353 of 2024

17.02.2026