

P.Manokaran Vs State Rep by

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Court : Chennai

Decided On : Apr-29-2025

Judge : Honourable Mr Justice G.K. Ilanthiraiyan

Appeal No. : CRL OP/13276/2025

Appellant : P.Manokaran

Respondent : State Rep by

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN and
Crl.M.P.Nos.8788 and 8789 of 2025

1. P.Manokaran

2. M.Sivagami ... Petitioners Vs

1. State Rep by The Inspector of Police, Peelamedu Police Station,
Coimbatore City. Coimbatore District.

2. Basant R Soni ... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C/ Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records and quash proceedings in CC.No.2444 of 2023 pursuant to the final report/charge sheet No.FR-115/2023 dated 27.03.2023 on the file of the Judicial Magistrate - II, Coimbatore. For Petitioners : Mr.N.A.Nassir Hussain For R1 : Mr.A.Gopinath Government Advocate (Crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceeding in CC.No.2444 of 2023, on the file of the Judicial Magistrate - II, Coimbatore.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (Crl.side) for the first respondent and perused the materials placed on record.

3. On the complaint lodged by the second respondent, the first

respondent registered FIR in Crime No.952 of 2022, for the offences punishable under Sections 406 and 420 of IPC, alleging that the accused are running fabrics. While being so, in the year 2022, the second respondent paid an advance amount for supply of fabrics to the tune of Rs.1,86,62,088/-. However, after receipt of the amount, the accused failed to supply any materials. Hence, the complaint.

4. After completion of investigation, the respondent Police filed a final report and the same has been taken cognizance in CC.No.2444 of 2023, on the file of the Judicial Magistrate - II, Coimbatore.

5. The learned counsel for the petitioners would submit that it is

completely a commercial transaction between the petitioners and the second respondent. In fact, during COVID-19, after receipt of advance amount, the second respondent could not able to supply the material. The second respondent also filed

a insolvency petition and it is under adjudication.

6. A perusal of records revealed that the petitioners received huge

amount from the second respondent and failed to supply the goods. Though the second respondent filed an application to declare himself as insolvent, it is no way connected with the offence committed by the petitioners. Therefore, there are specific allegations as against the petitioners to attract the above said offences.

7. In this regard, it is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in CrI.A.No.579 of 2019 dated 02.04.2019 in the case of Devendra Prasad Singh Vs. State of Bihar & Anr., as follows:- " 12. So far as the second ground is concerned, we are of the view that the High Court while hearing the application under Section 482 of

the Cr.P.C. had 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 against respondent No.2. In our view, this could be done only in the trial while deciding the issues on the merits or/and by the Appellate Court while

deciding the appeal arising out of the final order

passed by the Trial Court but not in Section 482 Cr.P.C. proceedings. 13. In view of the foregoing discussion, we allow the appeal, set aside the impugned order and restore the aforementioned complaint case to its original file for being proceeded with on merits in accordance with law.

8. Recently, the Hon'ble Supreme Court of India dealing in respect of the very same issue in CrI.A.No.1572 of 2019 dated 17.10.2019 in the case of

Central Bureau of Investigation Vs. Arvind Khanna, wherein, it has been held

as follows: 19. After perusing the impugned order and on hearing the submissions made by the learned senior counsels on both sides, we are of the view that

the impugned order passed by the High Court is not sustainable. In a petition filed under Section 482 of Cr.P.C., the High Court has recorded findings on several disputed facts and allowed the petition. Defence of the accused is to be tested after appreciating the evidence during trial. The very fact that the High Court, in this case, went into the most minute details, on the allegations made by the appellant-C.B.I., and the defence put-forth by the respondent, led us to a conclusion that the High Court has exceeded its power, while exercising its inherent jurisdiction under Section 482 Cr.P.C. 20. In our view, the assessment made by the High Court at this stage, when the matter has been taken cognizance by the Competent Court, is completely incorrect and uncalled for.

9. Further the Hon'ble Supreme Court of India also held in the order

dated 02.12.2019 in CrI.A.No.1817 of 2019 in the case of M.Jayanthi Vs. K.R.Meenakshi & anr, as follows: "9. It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, 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. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.

13. A look at the complaint filed by the

appellant would show that the appellant had incorporated the ingredients necessary for prosecuting the respondents for the offences alleged. The question whether the appellant will be able to prove the allegations in a manner known to law would arise only at a later stage....." The above judgments are squarely applicable to this case and as such, the

points raised by the petitioner are mixed question of facts and it cannot be considered in quash petition under Section 482 Cr.P.C.

10. In view of the above, this Court is not inclined to quash the

proceeding in CC.No.2444 of 2023, on the file of the Judicial Magistrate - II, Coimbatore. The personal appearance of the second petitioner alone is dispensed with and she shall be represented by a counsel after filing appropriate application. However, the second 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 in CC.No.2444 of 2023, within a period of six months from the date of receipt of a copy of this order.

11. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous petitions are closed. 29.04.2025 Internet:Yes Index:Yes/No

Speaking/Non speaking order

mn G.K.ILANTHIRAIYAN. J, mn To

1. The Judicial Magistrate - II, Coimbatore.

2. The Inspector of Police, Peelamedu Police Station, Coimbatore City. Coimbatore District.

3. The Public Prosecutor, High Court, Madras. 29.04.2025

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