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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.10.2026

PRONOUNCED ON : 28.10.2026

CORAM

THE HON'BLE MR JUSTICE R.VIJAYAKUMAR

CRL OP(MD) No. 21596 of 2026

CNR:{HCMD011348582026}

Case QR

and

CRL MP(MD) Nos. 20513 & 20514 of 2026

Dhinakar ....Petitioner/Accused No.6

Vs

1.State through
The Inspector of Police
Q-Branch CID
Ramanathapuram
Crime No.1 of 2019 ....1st Respondent/Complainant

2.Syed Mustafa Hussain
Sub Inspector of Police
Q-Branch CID
Ramanathapuram ...2nd Respondent/Defacto Complainant

PRAYER: This petition is filed under Section 528 of BNSS to call for the records relating to the impugned Charge Sheet in C.C.No. 29/2022 on the file of the Judicial Magistrate Court, Rameswaram and quash the same as against the petitioner herein and thus render justice.

For Petitioner(s): Mr.T.Veerakumar

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For Respondent(s): Mr.P.Samuel Gunasingh
Additional Public Prosecutor for R1

ORDER

This Criminal Original Petition has been filed by the sixth accused in C.C.No.29 of 2022 on the file of the learned Judicial Magistrate, Rameswaram, seeking to quash the charge sheet insofar as it relates to him, wherein he stands charged with the offences punishable under Sections 120-B and 109 of IPC read with Section 12(2) of the Passports Act, 1967.

(A) Factual Matrix:

2.The case of the prosecution, in brief, is that the first accused is a Sri Lankan national registered as a refugee at the Mandapam Camp. The co-accused are alleged to have conspired to procure an Indian passport for him under the assumed name of “Sundararajan, S/o.Rajendran”, by furnishing a fictitious address at Door No.17/1, Nadu Theru, Adamangalam, Seerkazhi Taluk.

3.Accused Nos.3 and 4 are alleged to have arranged the fictitious address. The fifth accused is said to have forged an Aadhaar Card and a Mark Sheet and to have applied online for the passport on 06.03.2019. The seventh accused, a postal employee, is alleged to have diverted the passport to the fourth accused on 20.03.2019.

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4.At the relevant point of time, the petitioner was serving as the Head Constable and Writer of the Vaitheeswaran Koil Police Station. According to the prosecution, though he was aware that the first accused was a Sri Lankan national, he did not visit the address furnished in the application for the purpose of passport verification and suppressed the true identity of the first accused. It is further alleged that he obtained the approval of the Circle Inspector of Police, Seerkazhi, and caused his verification report to be uploaded on the District Crime Records Bureau portal through WPC 691. On these allegations, he has been charged under Sections 120-B and 109 of IPC read with Section 12(2) of the Passports Act.

(B) Submissions of the learned counsel on either side:

5.The learned counsel appearing for the petitioner submitted that the petitioner had no prior connection with any of the accused and that there is no material whatsoever to indicate any agreement or meeting of minds between them. Consequently, the ingredients of Section 120-B of IPC are wholly absent. At the worst, the allegation would only amount to a dereliction of official duty in the matter of address verification, which by itself cannot constitute criminal conspiracy or abetment. It was further contended that there is no material to show that the petitioner knew that the address was false, or that he intentionally aided the commission of the offence, as required under Section 109 of IPC and

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Section 12(2) of the Passports Act. In support of this contention, reliance was placed upon the decision of the Hon'ble Supreme Court in ***Yogarani Vs. State by the Inspector of Police, reported in 2024 INSC 721***.

6.The learned counsel for the petitioner further contended that the Circle Inspector who approved the report and the Constable who uploaded it have not been arrayed as accused, and that the sanction contemplated under Section 15 of the Passports Act has not been obtained. It was also pointed out that the petitioner was not named in the FIR and that there is no allegation of receipt of money or any other consideration by him. According to the learned counsel, the case squarely falls within the parameters laid down in ***State of Haryana Vs. Bhajan Lal, 1992 Supp (1) SCC 335***, warranting the quashing of the charge sheet.

7.Drawing the attention of this Court to the order of cognizance dated 21.03.2022, the learned counsel contended that it is a mechanical, rubber-stamp order passed without application of mind and is, therefore, invalid in the eye of law. Reliance was placed upon the decision of the Hon'ble Supreme Court in ***Pawan Kumar Sharma Vs. State of Uttaranchal in SLP (Crl.) No.4701 of 2007*** dated 10.12.2007, and the order of this Court in Crl.O.P.No.10106 of 2019 batch dated 16.07.2019 (***Shanmugam and others Vs. The Inspector of Police,***

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Ariyalur Police Station, Ariyalur).

8.Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that as many as 20 prosecution witnesses have already been examined and cross-examined on behalf of the petitioner, and that the present petition, filed at such an advanced stage of the trial, is nothing but an abuse of the process of law.

9.The learned Additional Public Prosecutor further submitted that the fourth accused was arrested on 02.11.2019 and, after appearing pursuant to a notice under Section 41-A of Cr.P.C., gave a confession statement disclosing a prior arrangement with the petitioner, under which the petitioner was to be paid Rs.10,000/- per passport. As per the said confession, in pursuance of that arrangement, the petitioner issued police verification reports for every applicant sent by the third accused, as though an enquiry had been conducted at the address shown, without any enquiry at the true address. It is further stated in the confession that the passport of the first accused, under the false name “Sundararajan, S/o.Rajendran”, was cleared in this manner through the petitioner.

10.The learned Additional Public Prosecutor also relied upon the statement recorded under Section 161(3) of Cr.P.C. from the officer who conducted the departmental enquiry against the petitioner, to contend that the petitioner had

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cleared the passport applications of seven persons from the very same village without any field visit. According to him, all the seven names that surfaced in the departmental enquiry figure among the persons named by the fourth accused in his confession as Sri Lankan Tamils for whom Indian passports were obtained on the fictitious Adamangalam address.

11.Placing reliance upon Section 465(2) of Cr.P.C., the learned Additional Public Prosecutor contended that any irregularity in the taking of cognizance cannot be raised at this belated stage. Cognizance was taken on 21.03.2022, whereas the present petition challenging the same came to be filed only on 18.09.2026, after 20 witnesses had been examined. In this regard, reliance was placed upon the decision of the Hon'ble Supreme Court in ***Pradeep S. Wodeyar Vs. State of Karnataka, reported in (2021) 11 SCR 985***, particularly paragraph No.85(iv) thereof, and the decision in ***Sandeep Yadav Vs. Satish and others, reported in 2026 INSC 301***.

12.The learned Additional Public Prosecutor further pointed out that L.W.41 to L.W.43 are the Nodal Officers of various mobile service providers, who would speak to the call detail records between the fourth accused and the petitioner, and that two mobile phones belonging to the eighth accused, who had signed as “Sundararajan”, have been seized. Hence, according to him, a prima facie case has been made out against the petitioner warranting a full-fledged

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trial, and the prayer for quashing the charge sheet does not deserve to be entertained. He, therefore, prayed for dismissal of the petition.

13.This Court has given its anxious consideration to the submissions made on either side and perused the materials available on record.

(C) Discussion:

14.The gravamen of the allegation against the petitioner is that, pursuant to a prior arrangement with the fourth accused, he cleared the passport applications of Sri Lankan nationals on fictitious addresses without conducting any field verification.

15.The statement of L.W.70, the officer who conducted the departmental enquiry, reveals that the petitioner had downloaded and cleared the passport applications of seven persons claiming to be residents of Adamangalam, without visiting the addresses. As a result, seven persons, having no connection whatsoever with those names and addresses obtained passports. The false identity assumed by the first accused, namely “Sundararajan, S/o.Rajendran”, is one among those seven.

16.Adamangalam is a tiny village of barely 200 houses. The petitioner received as many as seven applications for passport verification from that very village, and all the applicants were Sri Lankan nationals. Even a cursory enquiry

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would have revealed that no person by the name of “Sundararajan, S/o.Rajendran” resided there.

17.The fictitious addresses were spread over three streets comprising about 200 houses, all within the limits of the petitioner's own police station. A local police officer who enquired into seven applications from so small a locality, none of whose applicants actually resided there, cannot, at this stage, be presumed to have acted innocently or bona fide.

18.It is well settled that a criminal conspiracy can be proved by circumstantial evidence and may be inferred from the conduct of the accused. Abetment by aiding includes aiding by an illegal omission. If the petitioner's omission to verify the addresses and his report were deliberate, they would amount to intentional aiding of the offence under Section 12(1)(b) of the Passports Act, which is precisely the charge laid against him. That is essentially a question of fact, which can be determined only at the trial.

19. L.W.41 to L.W.43, the Nodal Officers of various mobile service providers, have been cited as witnesses, and the two seized mobile phones have been shown as material objects. In such circumstances, whether the petitioner had a prior arrangement with the other accused is a matter that can be ascertained only during the trial, on the basis of the call detail records.

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20.The mere fact that the Circle Inspector and the Constable who uploaded the report have not been arrayed as accused does not entitle the petitioner to any relief. The investigation materials attribute the arrangement only to the petitioner, who alone was entrusted with the physical verification of the applications. In any event, the non-prosecution of others is no ground to quash the proceedings against the petitioner.

21.Insofar as the plea of want of sanction is concerned, the District Collector and District Magistrate, Ramanathapuram, has accorded sanction for prosecution by an order dated 25.01.2022. Hence, the said contention of the petitioner cannot be countenanced. That apart, the offences under Sections 120-B and 109 of IPC stand independent of the charge under the Passports Act.

22.The next contention of the learned counsel for the petitioner is that the order taking cognizance is a mere rubber-stamp order liable to be set aside, and that once it is set aside, the charge sheet itself must fall. This Court is unable to accept the said contention. Even assuming that the order taking cognizance suffers from non-application of mind, the only consequence would be a remand of the matter to the trial Court to apply its mind afresh and pass a reasoned order. That, by itself, can never be a ground to quash the charge sheet.

23.That apart, in the case on hand, cognizance was taken on 21.03.2022,

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whereas the present petition seeking to quash the charge sheet has been filed only on 18.09.2026, after a lapse of more than four years. In the meantime, P.W.1 to P.W.20 have been examined and also cross-examined on behalf of the petitioner.

24.Section 465 of Cr.P.C. reads as follows:

> ***465. Finding or sentence when reversible by reason of error, omission or irregularity.***
>
> *(1) Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a Court of competent jurisdiction shall be reversed or altered by a Court of appeal, confirmation of revision on account of any error, omission or irregularity in the complaint, summons, warrant, proclamation, order, judgment or other proceedings before or during trial or in any inquiry or other proceedings under this Code, or any error, or irregularity in any sanction for the prosecution, unless in the opinion of that Court, a failure of justice has in fact been occasioned thereby.*
>
> *(2) In determining whether any error, omission or irregularity in any proceeding under this Code, or any error, or irregularity in any sanction for the prosecution has occasioned a failure of justice, the Court shall have regard to the fact whether the objection could and should have been raised at an earlier stage in the proceedings."*

25.A Three-Judge Bench of the Hon'ble Supreme Court in ***Pradeep S. Wodeyar Vs. State of Karnataka, reported in (2021) 19 SCC 62***, has held as follows in paragraph Nos.46 and 108.2 to 108.4:

> *"46. Section 465 would also be applicable to challenges to*

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interlocutory orders such as a cognizance order or summons order on the ground of irregularity of procedure. This interpretation is supported by sub-section (2) to Section 465 which states that while determining if the irregularity has occasioned a failure of justice, the Court shall have regard to whether the objection could or should have been raised at an earlier stage in the proceeding. Therefore, the very fact that the statute provides that the Court is to consider if the objection could have been raised earlier, without any specific mention of the stage of the trial, indicates that the provision covers challenges raised at any stage. The Court according to sub-section (2) is to determine if the objection was raised at the earliest.

108.2. The objective of Section 465 is to prevent the delay in the commencement and completion of trial. Section 465 CrPC is applicable to interlocutory orders such as an order taking cognizance and summons order as well. Therefore, even if the order taking cognizance is irregular, it would not vitiate the proceedings in view of Section 465 CrPC.

108.3. The decision in Gangula Ashok was distinguished in Rattiram based on the stage of trial. This differentiation based on the stage of trial must be read with reference to Section 465(2) CrPC. Section 465(2) does not indicate that it only covers challenges to pre-trial orders after the conclusion of the trial. The cardinal principle that guides Section 465(2) CrPC is that the challenge to an irregular order must be urged at the earliest. While determining if there was a failure of justice, the courts ought to address it with reference to the stage of challenge, the seriousness of the offence and the apparent intention to prolong proceedings, among others.

108.4. In the instant case, the cognizance order was challenged by the appellant two years after cognizance was

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taken. No reason was given to explain the inordinate delay. Moreover, in view of the diminished role of the committal court under Section 209 of the Code of 1973 as compared to the role of the committal court under the erstwhile Code of 1898, the gradation of irregularity in a cognizance order made in Sections 460 and 461 and the seriousness of the offence, no failure of justice has been demonstrated."

26.In the light of the above pronouncement of the Hon'ble Supreme Court, it is clear that an order taking cognizance, being an interlocutory order, would not vitiate the proceedings even if it is irregular, in view of Section 465(2) of Cr.P.C. Any irregularity in the order taking cognizance, therefore, cannot be challenged belatedly, particularly when no reason is offered to explain the inordinate delay. In the present case, cognizance was taken on 21.03.2022 and the present petition has been filed on 18.09.2026, after a delay of more than four years, and that too, after the examination and cross-examination of P.W.1 to P.W.20. It is also relevant to note that the petitioner is himself a police official. In such circumstances, this Court is of the considered view that, in view of Section 465(2) of Cr.P.C. the alleged irregularity in the order taking cognizance, raised at this belated stage, would not vitiate the proceedings.

27. The reliance placed by the learned Counsel for the petitioner upon a decision of the Hon'ble Supreme Court in ***Yogarani Vs. State of Inspector of Police*** reported in ***2024 INSC 721***, does not advance the case of the petitioner.

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That was the criminal appeal arising out of conviction recorded after a full fledged trial. The Hon'ble Supreme Court, upon re-appreciation of the evidence, found that the witness examined did not establish that the applleant therein new that the first accused already held passport. The Hon'ble Supreme Court further found that the co-accused, again whom identical evidence had been let in had been acquitted. Acquittal was, thus, found upon the failure of the prosecution to prove knowledge at the conclusion of the trial and upon the principal of parity. In the present case, the materials collected in the investigation includes the statement of the departmental enquiry officer that the petitioner cleared 7 applications from a single small village within the limits of his own police station without any field vertification. The confession of the fourth accused alleging a monetory arrangement to the petitioner and the call detail records are sought to be proved through Nodal Officers. Whether these materials establish knowledge on the part of the petitioner is a matter to be tested at the trial. Further, the co-accused in the present case continue to face the trial and hence the question of parity does not arise at this stage. Hence the decision in ***Yogarani*** cited supra rendered on it own facts after a full trial, cannot be pressed into service to quash the charge sheet at this stage.

28.The charge sheet was laid on 21.03.2022, and the present petition seeking to quash the same has been filed on 18.09.2026, after 20 witnesses have

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been examined and cross-examined. The petitioner allowed the filing of the charge sheet, the taking of cognizance, the framing of charges and the examination of 20 witnesses to pass without demur. No explanation whatsoever has been offered for approaching this Court more than four years after cognizance was taken. Interdicting the trial at this advanced stage would only delay it, to the prejudice of the prosecution. This is yet another ground for declining to entertain the present quash petition.

29.However, it is open to the petitioner to raise all his contentions before the trial Court at the stage of final arguments, on the basis of the evidence and materials on record, including the absence of knowledge, the absence of any agreement, and the admissibility and evidentiary value of the confession of the fourth accused. The trial Court shall consider the same on their own merits, uninfluenced by any of the observations made by this Court in this order.

(D) Conclusion:

30.In view of the foregoing discussion, this Court finds no merit in the petition. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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

1. The Judicial Magistrate Court, Rameswaram

2.The Inspector of Police
Q-Branch CID
Ramanathapuram
Crime No.1 of 2019

3. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

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R.VIJAYAKUMAR,J.

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