



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 06-08-2026**

CORAM

**THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**CRL OP No. 21370 of 2026**

**and**

**CRL MP Nos.14254 & 14255 of 2026**

1. Sivasamy  
S/o. Pechimuthu,  
No.1/144, Ayya Gounder Thottam,  
Kothavadi Village, Kinathukadavu Circle,  
Coimbatore District.
2. Nithyananthan  
S/o. Sivasamy,  
No.1/144, Ayya Gounder Thottam,  
Kothavadi Village, Kinathukadavu Circle,  
Coimbatore District.
3. Somasundaram  
S/o. Raj,  
No.216/2, Kokkaan Thottam,  
Malaikovil Near, Kinathukadavu,  
Coimbatore District.

..Petitioner(s)/A1 to A3

Vs.

1. The State Rep. by,  
The Inspector of Police  
DCB, Coimbatore City,  
Coimbatore.  
(Crime No.9 of 2025).
2. Natarajan  
S/o. Gopalsamy Gounder,  
No.1/134, Thottathusalai, Kothavadi Village,  
Kinathukadavu, Coimbatore District.



..Respondent(s)

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Prayer: This Criminal Original Petition filed under Section 528 of BNSS., to call for the records in CC No.4142 of 2025 pending on the file of the Judicial Magistrate Court – IV, Coimbatore and quash the same as illegal and without jurisdiction.

For Petitioner(s): Mr.I.Abdul Basith

For Respondent(s): Mr.M.Mohammed Riyaz  
Govt. Advocate (Crl. Side) for R1

### **ORDER**

The prayer in this Criminal Original Petition is to quash the final report in C.C.No.4142 of 2025 pending on the file of the Court of Judicial Magistrate – IV, Coimbatore.

2 .Upon considering the First Information Report, the materials collected during the investigation and the Final Report and the arguments of the learned counsel for the petitioners and the learned Government Advocate (Criminal Side), the gist of allegations made in the case is that, when the defacto complainant is the owner of the property, the property was mortgaged to a bank. When steps were about to be taken under the SARFAESI Act, he approached the accused being the money lender. The accused pressurised him to execute a



sale deed even though the transaction was a borrowal. After the sale deed was executed, the property was further dealt with by the accused. However, the defacto complainant, as directed by the accused, repaid the entire amount to the accounts mentioned by the money lender in the name of his son and wife and in spite of paying the entire amount, the property is not reconveyed and a civil suit is also already filed for a declaration relating to the sale deed.

3. The learned counsel for the petitioners firstly would submit that when the document is an outright sale, no oral evidence or contrary view can be taken and the conveyance is an absolute sale and it does not contain any clause relating to borrowal. Secondly, it can be seen that, in the FIR itself, the defacto complainant states about the further dealing of the property etc. At that relevant point of time, no criminal complaint is given. Thirdly, the civil suit is filed and when it is duly resisted by the petitioners, only to twist the arms subsequent to the filing of the civil suit, a criminal colour is given to the entire civil transaction and the case is now foisted. The matter relates to a simple title to the property by way of a civil transaction and as such, cannot be decided by the Criminal Court. Further, by taking through the timeline, it is pleaded that the payment made by the defacto complainant was with reference to a different transaction and not the repayment of the loan.



4. I have also heard the learned Government Advocate (Criminal Side) for the 1<sup>st</sup> respondent, in this regard.

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5. An identical issue when the sale is an absolute sale has been dealt with by this Court in the order in ***Crl.O.P.No.29257 of 2025*** dated ***05.08.2026***, ***Subhash Chand Jain and Others Vs. State and Another***. I have also already held that to the extent relating to the title of the property the matter is completely civil in nature and it will not even be open for the party to proclaim that it is a mortgaged by conditional sale or an ostensible sale and the relief has to be ultimately obtained by obtaining a declaration under Section 31 of the Specific Relief Act, 1963. Therefore, to that extent, the matter is completely civil in nature and the parties have to face the issue before the civil Court.

6. The criminality comes by accepting the repayment. The case of the defacto complainant is that it is a repayment. If the transaction is an outright sale according to the petitioners, then accepting repayment on the other hand would amount to wrongful gain and wrongful loss to the defacto complainant and therefore, the criminality arises only with reference to the said transactions. For the said transactions, the contention is that the payment is accepted for a different transaction. That becomes factual in nature and is in the nature of a defence to be raised during the course of the trial. I have already dealt with the similar allegations in the aforesaid case cited *supra* and followed the dictum laid



down by the Hon'ble Supreme Court of India. Therefore, this case would also squarely fall on the same lines.

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7. In view thereof, keeping open the liberty of the petitioners to raise their defence that the repayment was only with reference to a different transaction before the trial Court, the prayer to quash the case itself cannot be countenanced. Therefore, the Criminal Original Petition stands disposed of. Consequently, connected Criminal Miscellaneous Petitions are closed.

8. Considering the nature of transaction and the hardship pleaded, the appearance of the petitioners before the trial Court, except for the necessary hearings as may be insisted upon by the trial Court, shall stand dispensed with on condition that on the days when the petitioners are not appearing, they must be represented by their counsel and due cooperation should be made to the trial Court in disposing of the case.

**06-08-2026**

Neutral Citation: Yes/No

smv



To  
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- 1.The Judicial Magistrate Court – IV, Coimbatore.
- 2.The Inspector of Police  
DCB, Coimbatore City,  
Coimbatore.
- 3.The Public Prosecutor, High Court of Madras.



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**D.BHARATHA CHAKRAVARTHY, J.**

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