



Crl.O.P.Nos.2037 of 2023 & 7516 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.Nos.2037 of 2023 & 7516 of 2024

Crl.M.P.Nos.1155, 1156 of 2023 & 5449 & 5451 of 2024

Crl.O.P.No.2037 of 2023:

1. Leelakrishnan

2. Nalini Sri

... Petitioners

Vs.

1. The State of Tamilnadu rep. by
The Inspector of Police,
Singanallur Police Station,
Coimbatore.
(In Crime No.2252 of 2020)

2. Sathish Kumar

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in relation to the proceedings in C.C.No.1242 of 2022 on the file of the learned Judicial Magistrate No.III, Coimbatore and quash the same.

For Petitioners : Mr.M.R.Thangavel

For Respondents

For R1 : Mr.A.Gopinath

Government Advocate (Crl.Side)

For R2 : Mr.C.Emalias



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Crl.O.P.Nos.2037 of 2023 & 7516 of 2024

Crl.O.P.No.7516 of 2024:

G.Sadhasivan

... Petitioner

Vs.

1. S.Sathish Kumar

2. The Inspector of Police,
E1 Police Station,
Singanallur,
Coimbatore.

... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to set aside the order dated 09.02.2024, Crl.R.C.No.53 of 2023 on the file of the learned I Additional District & Sessions Judge, Coimbatore and the same was confirmed in Order dated 12.01.2023, C.M.P.No.22482 of 2022 in C.C.No.1242 of 2022 on the file of the learned Judicial Magistrate No.III, Coimbatore, by allowing this criminal original petition.

For Petitioners : Mr.M.Murali
For Mr.Balakumar

For Respondents

For R1 : Mr.C.Emalias
For R2 : Mr.A.Gopinath
Government Advocate (Crl.Side)

COMMON ORDER

The Criminal Original Petition in Crl.O.P.No.2037 of 2023 has been filed to quash the proceedings in C.C.No.1242 of 2022 on the file of the learned Judicial Magistrate No.III, Coimbatore, thereby taken cognizance for the offences punishable under Sections 385, 403, 420 & 120B of IPC.



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WEB COPY 2. The Criminal Original Petition in Crl.O.P.No.7516 of 2024 has been filed challenging the order dated 09.02.2024, passed by the learned I Additional District & Sessions Judge, Coimbatore in Crl.R.C.No.53 of 2023 confirming the order dated 12.01.2023, passed by the learned Judicial Magistrate No.III, Coimbatore, in C.M.P.No.22482 of 2022 in C.C.No.1242 of 2022, thereby adding the petitioner as the third accused.

3. The petitioners in both petitions are arrayed as accused in C.C.No.1242 of 2022. The case of the prosecution is that on the complaint lodged by the defacto complainant, the respondent Police registered FIR in Crime No.2252 of 2020, alleging that the defacto complainant's grandfather and grandmother owned property to an extent of 3.11 acres comprised in S.No.587 situated at Singanallur Village, Coimbatore Taluk. They had purchased the said property by way of registered sale deed dated 20.08.1985 vide document Nos.3822 & 3823 of 1985. After demise of his grandfather, an extent of 1 acre was sold in favour of the third parties and the remaining extent of 2.11 acres is in the possession and enjoyment of his grandmother and other legal heirs



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including the defacto complainant. Thereafter, they had entered into an agreement for sale with the first petitioner in Crl.O.P.No.2037 of 2023 and the petitioner in Crl.O.P.No.7156 of 2024 and also received a sum of Rs.5,00,000/- as an advance. Thereafter, further sum of Rs.11,00,000/- was paid towards part of the sale consideration and the same was registered by extension agreement by extended period of contract on 01.08.2017.

4. While being so, the first petitioner in Crl.O.P.No.2037 of 2023 found that there was obstruction in the right of way to access the said property and there was a mistake in execution of document while purchasing the subject land from the original owner. Further, the original land owners filed suit in O.S.No.1168 of 2017 on the file of the II Additional District Munsif, Coimbatore, for declaration declaring the right of access through the suit property and also for consequential relief. Therefore, the defendants in that suit had caused notice to the agreement holders viz., the first petitioner in Crl.O.P.No.2037 of 2023 and the petitioner in Crl.O.P.No.7516 of 2024, thereby called upon them to withdraw the agreement for sale, since they have no right of access over the property.



WEB COPY 5. Thereafter, the petitioners caused notice on 30.01.2018 to the land owners and other legal heirs calling upon them to receive balance sale consideration and also execute the sale deed. While being so, on 05.03.2020, the defacto complainant's father received a sum of Rs.6,25,000/- towards his share and thereafter on 20.03.2020 the defacto complainant's father received further sum of Rs.3,50,000/- from the petitioners. Thereafter, once again on 05.06.2020, the defacto complainant's father received another sum of Rs.5,00,000/- as part of the sale consideration and also handed the original sale deed dated 20.08.1985 as security and assured that the sale deed would be executed.

6. Totally, the petitioners had paid a sum of Rs.30,75,000/- towards part of the sale consideration of the total sale consideration. However, defacto complainant for delaying the execution of sale deed as such, the agreement holders viz., the petitioners were constrained to file a suit in O.S.No.468 of 2020 on the file of the I Additional District Judge, Coimbatore, for specific performance and also for restraining the second respondent and other legal heirs from any manner alienating or encumbering the subject property.



WEB COPY 7. While pending the suit, the defacto complainant lodged compliant alleging that the original documents were illegally taken by the accused persons and the same was registered in Crime No.2252 of 2020 by the first respondent. After investigation, the first respondent filed a final report and the same has been taken cognizance in C.C.No.1242 of 2022 for the offences under Section 385, 403, 420 & 120B of IPC.

8. Originally, the charge sheet has been lodged as against A1 & A2 viz., the petitioners in Crl.O.P.No.2037 of 2023 alone. As against the deletion of the third accused viz., the petitioner in Crl.O.P.No.7516 of 2024, the defacto complainant filed protest petition and the same was allowed upto revisional Court. Aggrieved by the same, the impleaded accused filed the petition in Crl.O.P.No.7516 of 2024 to quash the same.

9. The learned counsel appearing for the petitioners submitted that on perusal of the charge sheet as well as the statement recorded under Section 161 of Cr.P.C., there is absolutely no ingredients and materials to attract any of the offences as framed by the prosecution as



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against the petitioners. Admittedly, the petitioners are the agreement holders and they filed suit for specific performance in O.S.No.468 of 2020 and it is pending for adjudication on the file of the learned II Additional District Munsif, Coimbatore. Further, there is no quarrel that the defacto complainant and his father along with other legal heirs so far received a sum of Rs.30,75,000/- towards part of the sale consideration and also handed over the original parent deeds to the agreement holders. Therefore, there is absolutely no question of taking away the original parent deeds that too without the knowledge of the defacto complainant.

10. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

11. On perusal of documents, it is revealed that after the demise of the defacto complainant's father, the defacto complainant lodged the complaint denying the advance amount received from the petitioners. It is relevant to extract the provision under Section 420 of IPC as follows :-

“420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to



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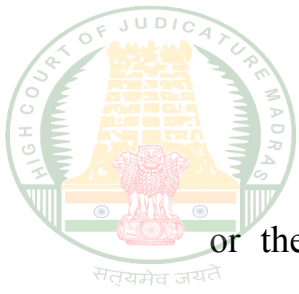
any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

The ingredients to constitute an offence under Section 420 of IPC are as follows :-

- (i) A person must commit the offence of cheating under Section 415 and
- (ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

12. The essential ingredients to attract the offence under Section 420 of IPC, are deception of any person, either by making a false or misleading representation or by other action or by omission and fraudulently or dishonestly inducing any person to deliver any property,

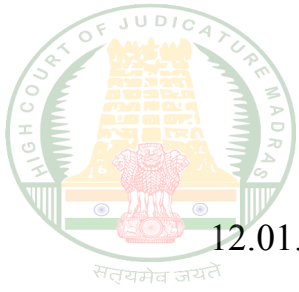


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or the consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit. Therefore, *mens rea* i.e., intention to defraud or the dishonest intention must be present and in the case of cheating, it must be there from the very beginning or inception.

13. On perusal of the complaint and on the statement recorded under Section 161 of Cr.P.C., it did not disclose the commission of any offence on the part of the petitioners under Section 420 IPC. There is nothing in the complaint to show that the petitioners had dishonest or fraudulent intention at the time, when they parted money with the defacto complainant. That apart, there is already a suit for specific performance is pending as against the defacto complainant.

14. In view of the above the entire proceedings cannot be sustained and is liable to be quashed. Accordingly, the impugned proceedings in C.C.No.1242 of 2022 on the file of the learned Judicial Magistrate No.III, Coimbatore, is hereby quashed. Further the order dated 09.02.2024, passed by the learned I Additional District & Sessions Judge, Coimbatore in Crl.R.C.No.53 of 2023 confirming the order dated



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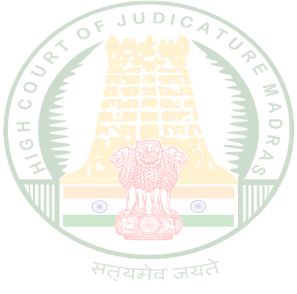
12.01.2023, passed by the learned Judicial Magistrate No.III,
Coimbatore, in C.M.P.No.22482 of 2022 in C.C.No.1242 of 2022,
thereby by impleading the petitioner in Crl.O.P.No.7516 of 2024 are
hereby set aside.

15. Accordingly, both the Criminal Original Petitions stand
allowed. Consequently, connected miscellaneous petitions are also
closed.

24.02.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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To

1. The I Additional District & Sessions Judge,
Coimbatore
2. The Judicial Magistrate No.III,
Coimbatore
3. The Inspector of Police,
Singanallur Police Station,
Coimbatore.
4. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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