

Crl.OP.No.5032 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2025

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.5032 of 2023
and
Crl.M.P.Nos.3170 & 3171 of 2023

- 1.Govindaraju
- 2.Duraisamy
- 3.Papathi
- 4.Pappal
- 5.Alamelu
- 6.Govindan
- 7.Mariyappan
- 8.Sankar
- 9.Malarkodi
- 10.Sagunthala
- 11.Vijaya
- 12.Jeeva
- 13.Murugan

... Petitioners



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Vs.

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1.State rep. By
The Inspector of Police,
Sooramangalam Police Station,
Salem.
(Cr.No.866 of 2017)

2.Venkatachalam

... Respondents

Prayer: Petition filed under Section 482 of Cr.P.C., to call for the records relating to the final report in C.C.No.275 of 2020 on the file of the Judicial Magistrate-II, Salem and quash the same.

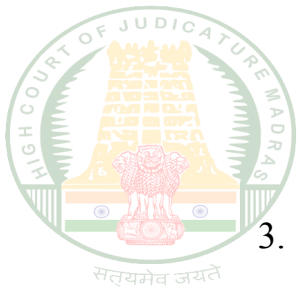
For Petitioners : Mr.V.Elangovan

For Respondent-1 : Mr.K.M.D.Muhilan, APP

ORDER

Challenging the final report in C.C.No.275 of 2020 on the file of the Judicial Magistrate-II, Salem, the petitioners had preferred the present Criminal Original Petition.

2. Heard the learned counsel for the petitioners as well as the learned Additional Public Prosecutor appearing on behalf of the first respondent.



3. The crux of the case is that the accused persons instead of 68 ¼ cents had sold 88 ¼ cents as if the 20 cents of the de-facto complainant belongs to them and thereby the case has been booked by the respondent police stating that the accused have committed forgery by creating fabrication of documents and sold the property which offences falls under Sections 465, 468, 471, 420 and 109 IPC.

4. On a perusal of the records, it is seen that the statements of the witnesses clearly indicate that only due to inadvertence the said act has been committed. The only grievance of the de-facto complainant is that the accused allegedly executed the said sale deed in order to grab his land, whereas it is not in dispute that the de-facto complainant is not in possession of the subject property. A civil suit has already been filed in O.S.No.201 of 2012 and interim injunction has been granted in favour of the accused which was also confirmed in CMA No.10 of 2012.

5. Be that as it may, the person himself misconceived as the owner of the disputed property area and had executed the sale, will neither constitute any offence nor amount to forgery for creation or falsification of documents. Further, on perusal of the averments made or the statements attributed the



offence committed by the accused under Sections 468 and 420 I.P.C. Merely because in possession of the property and exercised the right of sale, in no stretch of imagination amounts to falsification of documents and committed forgery. Hence, continuing the case by the prosecution is nothing but only an abuse of process of law.

6. At this juncture, it is relevant for this Court to refer to the decision of the Hon'ble Supreme Court in the case of ***Mohammed Ibrahim and other Vs. State of Bihar and another*** reported in ***2009 (8) Supreme Court Cases 751***, wherein the Hon'ble Apex Court has held as follows :

17. The allegations in the complaint do not also made out the ingredients of an offence under [section 504](#) of the Penal Code. [Section 504](#) refers to intentional insult with intent to provoke breach of peace. The allegation in the complainant is that when he enquired with accused 1 and 2 about the sale deeds, they asserted that they will obtain possession of land under the sale deeds and he can do whatever he wants. The statement attributed to appellants 1 and 2, it cannot be said to amount to an "insult with intent to provoke breach of peace". The statement attributed to accused, even if it was true, was merely a statement referring to the consequence of execution of the sale deeds by first appellant in favour of the second appellant.



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Section 464 IPC deals with making of false and the same is extracted below :

"464. Making a false document.--A person is said to make a false document or false electronic record---

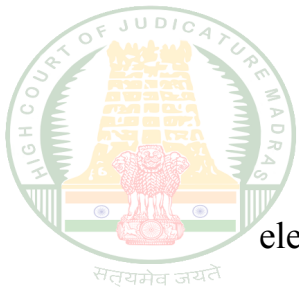
First.--Who dishonestly or fraudulently -

(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or a part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or Secondly.--Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alternation; or Thirdly.--Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any



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electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not know the contents of the document or electronic record or the nature of the alteration.

[Note: The words 'digital signature' wherever it occurs were substituted by the words 'electronic signature' by [Amendment Act 10 of 2009](#)]."

The condition precedent for an offence under [sections 467](#) and [471](#) is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sale deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.

10. An analysis of [section 464](#) of Penal Code shows that it divides false documents into three categories:

10.1) The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.

10.2) The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document



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in any material part, without lawful authority, after it has been made or executed by either himself or any other person.

10.3) The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practiced upon him, know the contents of the document or the nature of the alteration.

11. In short, a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorized by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his senses.

7. The aforesaid decision is self explanatory. In such view of the matter, the entire complaint is liable to be quashed. By holding, this Court is of the view that the present prosecution is nothing but an abuse of process of law and not maintainable.

8. In view of the discussions and in the light of the decision as stated above, the complaint in C.C.No.275 of 2020 on the file of the learned Judicial Magistrate-II, Salem filed against the petitioners herein, is quashed



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and the Criminal Original Petitions stands allowed. Consequently, the

connected Miscellaneous Petitions are also closed, if any.

DP

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To

- 1.The Judicial Magistrate-II,
Salem.
- 2.The Inspector of Police,
Sooramangalam Police Station,
Salem.
- 3.The Public Prosecutor,
Madras High Court.



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DP

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