



CRL.O.P. No. 4830 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-02-2025

CORAM

THE HONOURABLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP NO. 4830 of 2023

AND

CRL MP NO. 3049 OF 2023

Dr. Harish

...Petitioner

Vs

1. State Rep By,
Inspector Of Police,
Thirupathur Police Station,
Thirupathur Taluk,
Tamil Nadu.
(Cr.No.48 of 2023)

2. Raghavan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C.

praying to call for records and quash the FIR in Crime No.48 of 2023 on the
file of the 1st respondent police.

For Petitioner : Mr.A.Ramesh
Senior Advocate for
Mr.R.Ashwin

For Respondents
For R1 : Mr.K.M.D.Muhilan,
Govt. Advocate (Crl. Side)

For R2 : No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the F.I.R. registered in Crime No. 48 of 2023 on the file of 1st respondent police for the alleged offence under Sections 420 and 506(1) of I.P.C.

2. The petitioner is the sole accused. The allegation against the petitioner is that a sum of Rs.8,50,000/- transferred by the 2nd respondent to the petitioner on various dates from 10.02.2019 to 12.06.2019 to purchase table, chairs, benches, desks and windows for construction of school. Thereafter, the petitioner failed to supply any materials even after receipt of entire amount, which was deposited in the account. On receipt of complaint, the 1st respondent registered F.I.R. in Crime No.48 of 2023 for the offence under Sec.420 and 506(1) of I.P.C.

3. Mr.A.Ramesh, learned senior counsel for petitioner would submit that for the offence committed in the year 2019, the complaint was lodged only in the year 2023. There is no proper explanation for the delay in lodgment of complaint. The 2nd respondent approached the petitioner's father for financial assistance and for that, the property of the 2nd respondent was



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mortgaged with the petitioner's father by depositing of title deed registered in document No.8014 of 2016 and borrowed a sum of Rs.12,50,000/- and also executed a sale agreement. Subsequently, the sale agreement was cancelled and entered into a fresh agreement of sale, which was registered in document No.1033/2018. In pursuant to the same, the 2nd respondent issued two cheques for a sum of Rs.10,00,000/- each. Both cheques were presented by the petitioner's father for collection, but both were dishonoured for the reason that the 2nd respondent issued stop payment. However, in order to settle the amount, which was borrowed by him, the 2nd respondent had repaid a sum of Rs.8,50,000/- through RTGS to the petitioner's account. But, the 2nd respondent failed to repay entire amount, which was borrowed by him and as such, the petitioner's father issued statutory notice under Sec.138 of Negotiable Instruments Act and filed a complaint in S.T.C.No. 576 of 2019. After receipt of summons from the trial court, the 2nd respondent lodged the present complaint. In fact, after fulfilled trial, the learned Judicial Magistrate, Tiruvallur by an order dated 16.03.2023 in S.T.C.No. 576 of 2019 convicted the 2nd respondent for an offence under Sec.138 of Negotiable Instruments Act and sentenced him to undergo simple imprisonment for the period of 6 months and also awarded compensation to the tune of Rs.20,00,000/- under Sec. 357(3) of Cr.P.C. Therefore, the entire



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F.I.R. is nothing, but abuse of process of law, however, the amount was transferred to the petitioner's account for the purchase of wooden things. The petitioner is a Doctor by profession and he never assured with the 2nd respondent to supply of any materials for construction of school.

4. The learned senior counsel, in support of his contentions, relied upon the judgment of Hon'ble Supreme Court reported in **2023 SCC Online SC 951** in the case of **Mohamed Wajid and another vs. State of U.P. and others**, in which the Hon'ble Supreme Court of India held that for entertaining the petition filed under Sec.482 of Cr.P.C. to quash the proceedings or the F.I.R. on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances, the Court owes a duty to look into the F.I.R. with care and a little more closely. Therefore, it will not be just enough for the court to look into the averments made in the F.I.R./complaint alone for the purpose of ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and if need be, with due care and circumspection try to read in



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between the lines.

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5. Though notice served on the 2nd respondent and his name printed in the cause list, there is no representation on his side in person or through the pleader before this court.

6. The learned Government Advocate (Crl. Side) would submit that the investigation is still pending in Crime No. 48 of 2023. He would further submit that there are materials to attract the offence under Sec.420 and 506(i) of I.P.C.

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

8. On perusal of F.I.R., it reveals that the petitioner had paid a sum of Rs.8,50,000/- from 10.02.2019 to 12.06.2019 and assured that he will purchase wooden materials to make tables, chairs, benches, desks and windows for construction of school. But, the petitioner failed to supply any materials and refused to return the money. Further, the petitioner scolded



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him with harsh words while asking for return of money. On perusal of

records, it reveals that the petitioner's father entered into agreement of sale

with the 2nd respondent on receipt of Rs.12,50,000/-. That apart, the 2nd

respondent also had executed a memorandum for deposit of title deeds and

handed over parent title deeds. Though the first agreement for sale was

cancelled, once again, the 2nd respondent entered into another agreement of

sale in favour of petitioner's father. In order to repay the loan amount, the 2nd

respondent had issued two cheques and both cheques got dishonoured for

the reason that stop payment was issued by the 2nd respondent. Thereafter, in

order to void criminal prosecution under Sec.138 of Negotiable Instruments

Act, the 2nd respondent paid a sum of Rs.8,50,000/- on the same day, which

are mentioned in the complaint. Utilising these transactions, that too after

receipt of summons in the criminal prosecution for an offence under Sec.138

of Negotiable Instruments Act by the petitioner's father, the 2nd respondent

lodged the present complaint that too after the period of 4 years from the

date of alleged transaction. Therefore, the above judgment cited by the

learned senior counsel is squarely applicable to the facts of the present case.

Hence, the present impugned F.I.R. is nothing, but abuse of process of law

and no prima case is made out. In view of the above, F.I.R. registered in

Crime No.48 of 2023 as against the petitioner is liable to be quashed.



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9. Accordingly, the Criminal Original Petition stands allowed and the

First Information Report in Crime No.48 of 2023 registered by the 1st respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed. .

17.02.2025

Internet: Yes/No

Index : Yes/No

Speaking/Non speaking order

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To

1. Inspector Of Police,
Thirupathur Police Station,
Thirupathur Taluk,
Tamil Nadu.
2. The Public Prosecutor,
High Court of Madras, Chennai.

G.K.ILANTHIRAIYAN, J.

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