



WEB COPY



Crl.R.C.No.357 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.04.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.R.C.No.357 of 2025 &
Crl.M.P.No.3624 of 2025

--

Karunanidhi

.. Petitioner

Vs.

State by
Inspector of Police,
ALGP, Ariyalur
(Crime No.376 of 2011)

.. Respondent

Criminal Revision Case filed under Section 438 read with Section 442 of the BNSS, 2023, to set aside the order dated 04.02.2025 made in Crl.M.P.No.8410 of 2023 in C.C.No.143 of 2023, on the file of the learned Judicial Magistrate Court No.I at Ariyalur.

For petitioner : Mr.B.Kumar
Senior Counsel
For Mr.S.Ramachandran

For respondent: Mr.S.Sugendran
Additional Public Prosecutor



Crl.R.C.No.357 of 2025

ORDER

WEB COPY

This Criminal Revision Petition has been filed, challenging the order dated 04.02.2025 passed in Crl.M.P.No. 8410 of 2023 in C.C.No.143 of 2023 on the file of the learned Judicial Magistrate Court No.I, Ariyalur, whereby the application filed by the petitioner seeking his discharge came to be dismissed.

2. The case arises out of a private complaint which culminated in the registration of FIR in Crime No.376 of 2011. The allegations of the prosecution are that a parcel of land in Survey No.190/3 in Thelur Village, Ariyalur District was originally assigned to one Duraiswamy, son of Pakkirisamy, who was a Government employee. It is stated that following his death in 2002, his legal heirs initiated steps for transferring the patta in their names. However, to their dismay, they allegedly discovered that the patta stood in the name of one Boopathy, the first accused, who also claimed descent from a person bearing the identical name "Duraiswamy, S/o Pakkirisamy." The prosecution claims that Boopathy, taking advantage of this similarity of name, fraudulently got the land mutated in his favour and later executed a sale deed in favour of the present petitioner on 06.04.2011. Based on a complaint lodged by the legal heirs of the original assignee, an FIR was registered and a final report was filed implicating the present petitioner as the second accused. The petitioner filed a discharge petition seeking to be discharged from the case, but the same was dismissed. Hence, this Criminal Revision is filed.



WEB COPY

3. The learned Senior Counsel appearing for the petitioner submitted that the petitioner is a bona fide purchaser for valuable consideration and has absolutely no connection with the alleged acts of impersonation or fraud committed by the first accused. It was submitted that even according to the prosecution's own version, the role of the petitioner is limited only to being a transferee under a registered sale deed for which due consideration was paid. It was further argued that there is no accusation that the petitioner was in conspiracy with the vendor or that he had prior knowledge of the so-called fraudulent acquisition of patta. The learned Senior Counsel placed emphasis on the fact that there is no material on record to demonstrate mens rea or active participation of the petitioner in any criminal act. In the absence of any allegation or material suggesting that the petitioner was aware of the fraudulent antecedents of the title or that he acted in collusion with the first accused, it was urged that continuation of proceedings against the petitioner would amount to abuse of process of law. It was contended that the ingredients of the offences under Sections 120(B), 420, 423, 465, 468 and 471 IPC are not satisfied in so far as the petitioner is concerned, and as such the order of the learned Magistrate refusing discharge is liable to be interfered with. The further submission was that the petitioner had conducted due diligence prior to the purchase and the revenue records, even prior to the sale, were standing in the name of the vendor, thereby lending credence to the legitimacy of the transaction. It was further urged that if the criminal proceedings were allowed to proceed, it would not only cause serious



Crl.R.C.No.357 of 2025

hardship and prejudice to the petitioner but also send a regressive signal to genuine property transactions.

4. Per contra, the learned Additional Public Prosecutor submitted that the criminal revision is devoid of merits and the learned Magistrate had rightly dismissed the application for discharge. It was submitted that the petitioner's vendor obtained the patta through impersonation and deceit by exploiting the similarity of names between his father and that of the original assignee. The petitioner, having derived title through such transaction, cannot simply claim immunity from criminal liability. The learned Additional Public Prosecutor contended that the issue whether the petitioner had knowledge of the fraud or whether he exercised due diligence before purchasing the property cannot be conclusively determined at this stage and can only be evaluated during the course of trial after appreciation of oral and documentary evidence. It was urged that the stage of discharge is not the stage for meticulous appreciation of evidence or for arriving at conclusive findings of fact. The learned Additional Public Prosecutor also submitted that the impugned order does not suffer from any illegality or perversity warranting interference in exercise of revisional jurisdiction.

5. Heard the learned counsel on either side and perused the materials available on record.



WEB COPY

6. It is well settled principle that at the stage of considering an application for discharge, the trial court is only to consider whether there is a strong suspicion, based on the materials on record, which would justify the framing of charge. It is not permissible at this stage to go into the truthfulness, sufficiency, or reliability of the evidence, which is a matter exclusively for the trial. In the present case, the final report sets out in detail the alleged manipulation of revenue records by the first accused and the consequential sale in favour of the petitioner. Though the petitioner may claim to be an innocent purchaser, the fact remains that the sale deed is founded upon an allegedly fraudulent title acquired by impersonation. Whether the petitioner had knowledge of such illegality, whether he participated in the conspiracy, and whether he had notice of infirmity in title these are all matters requiring evidence and cross-examination and cannot be brushed aside summarily. The submission that the ingredients of the offences are not made out is also without merit. At this stage, what is required is not a full satisfaction of every ingredient of the offence by evidence, but rather whether the available materials raise a prima facie case sufficient to proceed to trial. The documents forming part of the police report, including the statements of the legal heirs, mutation records, and registration documents, coupled with the circumstances under which the title was derived, do give rise to a strong suspicion about the legality of the transaction and the possible complicity of the petitioner. The plea of bona fide purchaser and absence of mens rea are defences which may be raised and substantiated during the trial. To



Crl.R.C.No.357 of 2025

discharge the petitioner merely on the basis of his explanation without testing it through trial would defeat the very object of criminal prosecution.

7. This Court finds no perversity, irregularity or legal infirmity in the impugned order passed by the learned Magistrate. The reasoning of the trial court is supported by judicial precedents which consistently hold that the probative value of materials cannot be examined at the stage of discharge and that the presumption of innocence does not amount to a presumption of discharge.

8. For the foregoing reasons, this Court is not inclined to interfere with the impugned order. The Criminal Revision Petition is accordingly dismissed. Consequently, connected miscellaneous petition is closed.

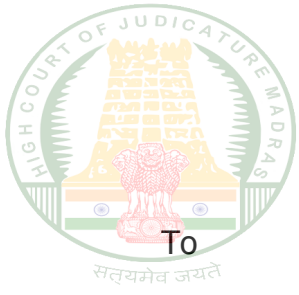
09.04.2025

r n s

Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No



Crl.R.C.No.357 of 2025

To

WEB COPY

1. The Inspector of Police,
ALGP, Ariyalur
(Crime No.376 of 2011)
- 2.The Judicial Magistrate Court No.I
Ariyalur.
- 3.The Public Prosecutor,
Madras High Court, Chennai.



WEB COPY



Crl.R.C.No.357 of 2025

P.VELMURUGAN, J

r n s

Crl.R.C.No.357 of 2025 &
Crl.M.P.No.3624 of 2025

09.04.2025