IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2025

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.O.P.No.6210 of 2025 and
Crl.M.P.No.3987 of 2025

1. S.Manoharan
2. M.Jayanthi
3. P.Lakshmipathy ...Petitioners

Vs.

1. State represented by
   The Inspector of Police
   CCB, Coimbatore City.
   Crime No.71 of 2024

2. S.Srinivasan ...Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the First Information Report in Crime No.71 of 2024 on the file of the first respondent police and to quash the same, so far as the petitioners are concerned.

For Petitioners : Mr.N.Manoharan

For Respondents : Dr.C.E.Pratap
Govt. Advocate (Crl.Side) for R1
Mr.Ganesh Rajan for R2

ORDER

This petition has been filed seeking to quash the case in Cr.No.71 of 2024 pending on the file of the first respondent police.

2 Learned counsel for the petitioners would submit that the the first petitioner and the second respondent are brothers. The second respondent was working in M/s.Electro India, running by the first petitioner and after gaining experience, started separate business as a proprietor of M/s.Maha Power Controls on 28.07.2004 and he was carrying business as sole proprietor obtaining separate Registration Certificate. The Enforcement Wing of the Sales Tax conducted raid in the year 2012 and detected the foul play of the second respondent in paying the Sales Tax and thereby imposed penalty on him. It is true that the second respondent was not in India between 2008 and 2010, but during the said period his wife was taking care of the business and the petitioner is no way connected with the allegations made by the petitioner.

2.1 The second respondent challenged the order of penalty before this Court by way of writ petition and he had filed many writ petitions seeking one or other relief and he could not succeed on the same and finally his property has been attached. The second respondent, in order to evade the same, deliberately executed a bogus family arrangement. Earlier the second respondent filed complaint and after enquiry the same was closed as there is no truth on the allegations made by the second respondent. Now without disclosing the fate of the earlier complaint, the second respondent/defacto complainant filed the present private complaint under Section 156(3) Cr.P.C. and based on the directions of the learned Judicial Magistrate No.VII, the present case in Cr.No.71 of 2024 has been registered against the petitioners. In fact the second respondent only forged his own signature and blaming the first petitioner as if he forged the second respondent's signature. Therefore the second respondent, in order wreck vengeance, trying to make the criminal colour on the dispute between the brothers, which is purely civil in nature.

3 The learned counsel for the second respondent would submit that the second respondent in the year 2014 itself preferred complaint against the petitioners and there was no action taken on the same. Therefore after obtaining relevant details through Right to Information Act, the second respondent now preferred private complaint under Section 156(3) and the learned Magistrate ordered investigation, based on which, present FIR has been registered. Further the second respondent mentioned about the earlier complaint in the present FIR also. Further the first petitioner only sent intimation letter to Commercial Tax Department intimating the closure of M/s.Maha Power Controls, which clearly proves that the first petitioner actively involved in the business transaction of M/s.Maha Power Controls.

3.1 The learned counsel would further contend that the second respondent was not in India between November 2008 and October 2010 and during the said period the first petitioner filed sales tax by putting the signature of the second respondent and thereby he committed forgery and also fabricated certain documents. Therefore the second respondent filed complaint against the petitioners. Now the disputed signatures have been sent to Forensic Lab and investigation also pending. Therefore there is no reason to quash the FIR and this petition is liable to be dismissed.

4 Learned Government Advocate (Crl.Side) would submit that there are *prima facie* allegations against the petitioners that the first petitioner forged the defacto complainant's signature and also fabricated certain documents and hence investigation would only reveal the truth.

5 Heard the learned counsel on either side and the learned Government Advocate (Crl.Side) for the first respondent and perused the materials available on record.

6 A bare reading of the complaint and the FIR would reveal that there are *prima facie* allegations to proceed the investigation further. The grounds taken by the petitioners are nothing but a defence, which can be agitated during trial. This Court, while exercising power under Section 528 BNSS, cannot conduct roving enquiry on the materials placed. It is for the Investigating Officer to conduct investigation and lay the charge sheet and if the investigation reveals no *prima facie* case, it is always open for the Investigating Agency to close the case either 'as mistake of fact' or the dispute is civil in nature. Now this Court, cannot testify the materials placed by both the parties, especially while exercising powers under Section 528 BNSS.

7 Accordingly, this Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition also closed.

10.06.2025

cgi
Speaking /Non-speaking order

To

1. The Inspector of Police, CCB, Coimbatore City.
2. The Public Prosecutor, Madras High Court.

P.VELMURUGAN, J.

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Crl.O.P.No.6210 of 2025

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