



Crl.O.P.No.7252 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2025

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.7252 of 2025

1. Ajay Kumar Srivastva
 2. Ramamohan
 3. Shri Joydeep Dutta Roy
 4. Shri.T.Dhanraj
 5. Shri Dhurva Charan Kar
 6. K.Ravi
 7. Vure Seshu Kumari
- ... Petitioners

Vs.

M/s.Rajarajan Motors,
Represented by its Proprietor
Mr.K.Rajarajan

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 BNSS, 2023, to quash the private complaint in C.C.No.435 of 2025 dated 07.02.2025 filed by the respondent before the VII Judicial Magistrate, Puducherry, insofar as the petitioners are concerned.

For Petitioners : Mr.R.John Sathyan
Senior Counsel for
Mr.Swami Subramanian

For Respondent : Mr.D.Rajagopal



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ORDER

WEB COPY This Criminal Original Petition is filed to quash the private complaint in C.C.No.435 of 2025 dated 07.02.2025 on the file of the VII Judicial Magistrate, Puducherry, insofar as the petitioners are concerned.

2. The respondent herein/borrower filed a private complaint in C.C.No.435 of 2025 on the file of the VII Judicial Magistrate Court, Puducherry, invoking Section 223 of the BNSS Act against the petitioners/officials of the Bank for the alleged offences punishable under Sections 237, 303, 316(1)(5) and 318(4) of the BNS, 2023. The petitioners herein/A1 to A7 are the officials sitting in the head of the Central Office. A8 is the purchaser in the e-auction. A9 and A10 are said to be the agents of the Bank. A11 is said to be the Advocate-cum-Notary.

3. The crux of the complaint is that though the security interest has been created for 11 items of the properties and the Debt Recovery Tribunal (DRT) decreed the suit for total amount of Rs.59,89,20,687/- (Rupees Fifty Nine Crores Eighty Nine Lakhs Twenty Thousand Six Hundred and Eighty Seven Only), instead of, initiating DRT proceedings, the proceedings under Chapter-III of the Securitisation and



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Reconstruction of Financial Assets and Enforcement of Security Interest

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Act [hereinafter referred to as 'SARFAESI Act'] has been taken by the Bank and one of the items has been sold for a sum of Rs.6,37,92,000/- (Rupees Six Crores Thirty Seven Lakhs Ninety Two Thousand only).

4. The grievance of the *de-facto* complainant is that there was only one bidder, that too the property has been sold for lesser amount and there may be a collusion between the borrower and the seller along with the agency. Further, it is contended that having sold the property, no possession has been taken over under Section 14 of the SARFAESI Act. Therefore, according to the *de-facto* complainant, all these attracts criminal offences, thereby, the trial Court had taken the complaint on file and issued summons to the accused persons in Crl.M.P.No.435 of 2025 under Section 223 of the BNSS, 2023.

5. Mr.R.John Sathyan, learned Senior Counsel appearing for the petitioners would submit that the complaint is nothing but an abuse of process of law to harass the officials of the Bank. Having suffered the decree before the DRT and no challenge has been made to the said sale conducted under the SARFAESI Act. Now, the *de-facto* complainant has



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taken indirect method in criminal prosecution to un-settle the settled issue. Hence, he would submit that it is nothing but a clear case of abuse of process of law.

6. Though the respondent has filed a counter affidavit reiterating the allegations in the complaint, therefore, this Court need not to repeat the same once again.

7. Mr.D.Rajagopal, learned counsel appearing for the respondent would submit that the offences are made out and even after the complaint, he has already sent a complaint to the Central Registry, which has taken note of the complaint and has forwarded the same to the Superintendent of Police and he has submitted a report to the Vigilance. Therefore, according to them, *prima facie* case is made out.

8. Be that as it may, it is relevant to note that the entire allegations of the petitioner in the private complaint is with regard to sale of one of the items of the properties on 03.07.2024 in e-auction notice, which resulted in sale of property on 29.07.2024. It is also relevant to note that sale conducted under Chapter-III of the SARFAESI Act is not



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challenged before the DRT under Section 17 of the SARFAESI Act.

Therefore, when once auction was conducted and the sale reached finality, merely because, based on the petition allegations that property has been sold for lesser amount, it cannot be presumed that an offence is made out. If at all the petitioner in the private complaint has grievance over the violation of any Rules, he ought to have challenged the same in appropriate manner as provided under Section 17 of the SARFAESI Act, which has not been done so.

9. Further contention of the learned counsel for the respondent is that the possession has not been taken under Section 14 of the SARFAESI Act, therefore, same will attract offence. This Court is of the view that having suffered orders and in fact, DRT has also issued a certificate to the tune of Rs.59,89,20,687/- as a recovery certificate. Now, all the properties have been sold to realise the said amount. Now, it is too late for the respondent herein to make allegations without challenging DRT proceedings. It is relevant to note that no prosecution lies against the officials, who act in good faith under SARFAESI Act. As far as the proceedings under Chapter-III of SARFAESI Act are concerned, the respondent has not challenged the same and reached finality therefore, it



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has to be held that all the action had been taken in good faith. In such view of the matter, the protection also available against officials under Section 32 of the SARFAESI Act. Much emphasis has been made by the learned counsel for the respondent with regard to Sections 29 and 30 of the SARFAESI Act.

10. Section 29 of the SARFAESI Act deals with offences i.e., any person who contravenes, attempts to contravene, or abets the contravention of the provisions of the Act or any Rules made thereunder, it attracts the punishment up to one year of imprisonment, a fine or both.

11. To maintain such complaint, the complaint has to be filed either by the officer of the Central Registry or the Officer of the Reserve Bank of India or the Special Officer appearing on behalf by the Central Registry or as the case may be. It is relevant to note that the said provisions are no way connected and the same will not be applicable to the present case. First of all, there is no evidence to show that the provisions are contravened. When the proceedings have been taken under Chapter –III of the SARFAESI Act and the sale has reached finality, and the same has not been challenged as per law. Now, the *de-facto*



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complainant cannot take a stand that still the Court can take cognizance of the offences. Therefore, this Court is of the view that the private complaint is clear abuse of process of law. Having suffered orders and security interest was created for more than 11 properties to the tune of Rs.59,89,20,687/- (Rupees Fifty Nine Crores Eighty Nine Lakhs Twenty Thousand Six Hundred and Eighty Seven Only) and the properties have been sold to realise that amount, that too, under the provisions of the law, the criminal prosecution is nothing but a clear abuse of process of law. Hence, the private complaint in C.C.No.435 of 2025 is hereby quashed. Accordingly, this Criminal Original Petition is allowed.

12. With regard to the contention of the learned counsel for the respondent that investigation conducted by the Vigilance Commission, *prima facie* case is made out, it is for the concerned authority to take action against the complaint as per Section 30 of the SARFAESI Act.

09.09.2025

Index : Yes/No
Neutral Citation Case : Yes/No
Speaking Order : Yes/No
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To

The VII Judicial Magistrate,
Puducherry.



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N. SATHISH KUMAR, J.

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