



CrI.O.P.No.8118 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.No.8118 of 2025
and CrI.M.P.No.5291 of 2025

Vishwambar

... Petitioner

Vs

1. State by:

The Inspector of Police,
District Crime Branch,
Kancheepuram.
Crime No.40 of 2018

2. Vidya V

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/Section 482 of Cr.P.C, to call for the records in Crime No.40 of 2018 pending on the file of the District Crime Branch, Kancheepuram and quash the same as against the petitioner/Accused-1.

For Petitioner : M/s P.Kritika Kamal
For R1 : Mr.A.Gopinath
Government Advocate (CrI.side)
For R2 : Mrs.V.Vidya
2nd respondent in person

ORDER



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This Criminal Original Petition has been filed challenging the FIR in

Cr.No.40 of 2018 pending on the file of the District Crime Branch, Kancheepuram and quash the same as against the petitioner/Accused-1.

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

3. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.40 of 2018 for the offences punishable under Sections 406, 420 and 34 of IPC alleging that as per the Memorandum of Understanding dated 19.06.2006 between the first accused and the second respondent in respect of the property to an extent of 20 acres situated at Potheri, opposite to SRM College and behind Animal Research Centre, the second respondent had purchased 13 cents of land which is stated to be approved one and it is the frontage of several plots comprised in DTCP No.100A/75, 100B/75, situated at Kattankolathur Village, Chengalpet Taluk, Kanchipuram District. Further, the first accused induced the second respondent to part with a sum of Rs.80 Lakhs for the completion of the entire sale process and also insisted the second respondent to pay only as cash. Therefore, the second



respondent had paid a sum of Rs.10 lakhs through cheque and remaining amount as cash. Even after receipt of the entire payment, the accused failed to register any property, thereby cheated the defacto complainant. Later, she also came to know that the property were sold out by the accused to other parties. The petitioner is not the owner of the property and he never induced the second respondent to part with the money for purchase of land. In fact, the petitioner is the Power of Attorney of several land owners.

4. Though the petitioner and the second respondent entered into a Memorandum of Understanding dated 19.06.2006, the second respondent agreed to pay a sum of Rs.50 Lakhs to purchase the property. The second respondent had paid only Rs.10 Lakhs for which, the petitioner had executed a sale deed dated 28.12.2006 registered vide Document No.16629 of 2006 in respect of 13 cents of the property purchased in S.No.19/1, 19/2, 19/3, 20/1, 20/2 and 20/3 situated at Kattankolathur Village, Chengalpet Taluk, Kanchipuram District.

5. That apart, a perusal of the entire complaint revealed that all the



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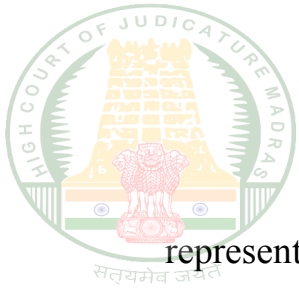
allegations are civil in nature and the second respondent ought to have approached the civil Court for appropriate relief. Even assuming that the second respondent had paid the entire amount as per the Memorandum of Understanding dated 19.06.2006, the petitioner had executed a sale deed in respect of the land ad-measuring 13 cents. In respect of non execution of sale deed, the second respondent ought to have approached the civil Court for appropriate relief and no offence is made out under Sections 406 and 420 of IPC.

6. The second respondent appeared in person and submitted that she was cheated by the petitioner to the tune of Rs.80 Lakhs for which the petitioner had executed a sale deed only to an extent of 13 cents that too without original title deed. However, she failed to explain for the inordinate delay in filing the complaint.

7. It is well settled that in order to bring the charge for the offence under Section 420 of IPC:

(i) the accused must fraudulently or dishonestly made some false compromise.

(ii) the defacto complainant must act on the strength of such false



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representation or compromise.

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8. In the case on hand, the petitioner neither made any dishonest nor any fraudulent representation to the second respondent. Therefore, the offence under Section 420 of IPC is not at all made out as against the petitioner.

9. On perusal of the entire allegations made in the FIR revealed that even according to the second respondent, the entire allegations are related to many transactions between them. Therefore, the criminal prosecution is used as an instrument to harass the petitioners and as such, the present FIR has been registered with an ulterior motive and it cannot be sustained as against the petitioners.

10. It is relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of *M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]*, held that the civil liability cannot be converted into criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law



remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

11. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh [2000 (2)***

SCC 636], the Honourable Supreme Court of India held as follows:-

“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any Court or otherwise to secure the ends of justice.”

12. That apart, the Memorandum of Understanding was executed on 19.06.2006, but the second respondent lodged a complaint only in the year 2018. Further, after the registration of FIR, there is absolutely no further progress and simply it is pending for investigation on the file of the first



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respondent.

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13. In view of the above, the impugned FIR cannot be sustained and is liable to be quashed. Accordingly, the FIR in Crime No.40 of 2018 pending on the file of the first respondent is hereby quashed.

14. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

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Internet:Yes
Index:Yes/No
Speaking/Non speaking order
mn



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G.K.ILANTHIRAIYAN. J.

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To

1. The Inspector of Police,
District Crime Branch,
Kancheepuram.
2. The Public Prosecutor,
High Court, Madras.

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