



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-10-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 8453 of 2025

and

CRL MP NO.5549 OF 2025

1. NIRMALA

2. KARUNAKARAN

Petitioner(s)

Vs

1. The State Rep.By,
The Inspector Of Police,
DCB-II, Chengalpattu,
Cr.No.10 Of 2024.

2.K. Balakrishnan

Respondent(s)

PRAYER

This Criminal Original Petition has been filed to call for the records relating to the FIR in Cr.No.10 of 2024, on the file of the first respondent and to quash the same.



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For Petitioners	Mr.R.Ragavendran
For R1	Mr.K.M.D.Muhilan Additional Public Prosecutor
For R2	Mr.P.Velmurugan

ORDER

This Criminal Original Petition has been filed to call for the records relating to the FIR in Cr.No.10 of 2024, on the file of the first respondent-Police and to quash the same.

2. The second respondent lodged a complaint before the first respondent-Police as against the accused/petitioners herein, in Crime No.10 of 2024 for the offences under Sections 420, 465, 467, 468, 471 and 506(part ii) of the IPC. The crux of the allegations made in the FIR is that the subject property is owned by one Mrs.Annapoorani, the mother of the first petitioner, who had executed a Power of Attorney in favour of one Mr.Venkatesan, who is the brother of the *defacto* complainant. The *defacto* complainant is said to have purchased the property from the Power Agent on 18.07.2007. According to him, he is in possession of the property. When the matter stood thus, Mrs.Annapoorani, the original owner executed a settlement deed in favour of



her daughter. Therefore, according to the petitioners, they have not committed the offence.

3. Learned counsel for the petitioners submitted that, based on the complaint lodged by the second respondent/*defacto* complainant, the first respondent-Police registered a case against the petitioners for the offences under Sections 420, 465, 467, 468, 471 and 506(part ii) of IPC in Crime No.10 of 2024. The said F.I.R has been filed on 28.08.2024 after a civil suit has been filed by the *defacto* complainant in O.S.No.178 of 2019 on the file of the District Munsif Court, Maduranthakam on the same set of allegations. In the said suit, the first petitioner's mother has also raised a counter claim seeking to set aside the document executed in favour of the *defacto* complainant. Hence, only to avoid civil litigation, the F.I.R came to be registered. Further, from the entire allegation, even taken as such, no offence has been made out. According to the petitioners, Power of Attorney has been given to the *defacto* complainant's brother for developing the property, whereas he entered into sale agreements with the purchasers and no such sale consideration has been paid to the petitioners and the property is in possession of the petitioners.



4. The learned counsel for the second respondent submitted that though it is only a civil dispute between the Power agent and the original owner, the de facto complainant being a bonafide purchaser, lodged a complaint for taking action against the petitioners. Therefore, according to him, offences are made out.

5. Heard the learned counsel appearing for the petitioners, the learned counsel for the private respondent and the learned Additional Public Prosecutor appearing for the respondent-Police and perused the materials available on record..

6. The very complaint filed by the de facto complainant is not disputed. The entire allegations contained in the plaint in O.S.No.178 of 2019 and the allegation made in the F.I.R are similar in nature, whereas the petitioners took a stand that the Power of Attorney was given specifically for developing the property which has been misused.

7. The entire facts clearly indicate that there is a civil dispute between the parties. Merely because the original owner is said to have executed a settlement deed in favour of her daughter/first petitioner herein, this Court is of the view that the same will not amount to mutation and creation of false records. To



attract the offence of forgery, creation of false records has to be established in this regard.

8. For better appreciation, this Court deems it fit to refer to the judgment of the Hon'ble Supreme Court in the case of *Mohd. Ibrahim v. State of Bihar*, reported in (2009) 8 SCC 751, wherein, it is held as under:

“There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bona fide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of “false documents”, it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed.

*When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under Section 464 of the Code. **If what is executed is***



not a false document, there is no forgery. If there is no forgery, then neither Section 467 nor Section 471 of the Code are attracted.”

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Emphasis supplied

9. In the light of the above judgement, and considering the nature of the suit filed by the second respondent/defacto complainant, as early as in the year 2019 itself, the matter is still pending before the Civil Court, this Court is of the view that for the same grounds, the criminal prosecution cannot be maintained. Even if the entire F.I.R as such is taken as proof, the same will not constitute an offence. The parties are at liberty to agitate their rights before the civil Court. Thus, the FIR stands quashed. Accordingly, this Criminal Original Petition is Allowed. Consequently, connected miscellaneous petition is closed.

13-10-2025

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



To

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1. The Inspector Of Police,
DCB-II, Chengalpattu

2. The Public Prosecutor,
High Court, Chennai.



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N.SATHISH KUMAR J.

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