



Crl.R.C No.996 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 11.08.2025

PRONOUNCED ON: 20.08.2025

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C No.996 of 2025

1.R.Vijaya Kumar

2.R.Udaya Kumar

... Petitioners

..Vs.

R.Sivakumar

... Respondent

Prayer: This Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C to set aside the order passed in Crl.M.P No.16793 of 2022 in C.C No.9617 of 2021 dated 20.01.2023 on the file of the Metropolitan Magistrate, CCB & CBCID Cases Court (Metro Cases) Egmore, Chennai.

For Petitioners : Mr.N.R.Elango, Senior Counsel
for Mr.B.Arvind Srevatsa

For Respondent : Mr.N.Manoharan



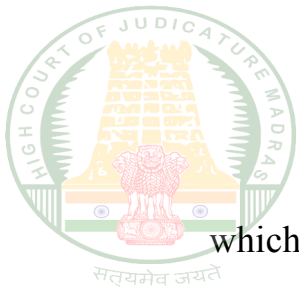
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ORDER

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This revision petition has been filed as against the order passed in Crl.M.P No.16793 of 2022 in C.C No.9617 of 2021 dated 20.01.2023 by the Metropolitan Magistrate, CCB & CBCID Cases Court (Metro Cases) Egmore, Chennai, thereby dismissed the petition to discharge the petitioners.

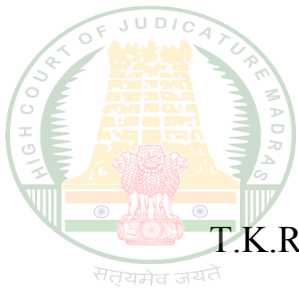
2. The petitioners are arrayed as A1 and A2 on the complaint lodged by the respondent for the offences punishable under Sections, 420, 466, 467, 468 and 469 IPC and Section 81, 82(a) and 83 of the Registration Act alleging that the respondent's father T.K.Ramachandran and his mother Pattammal died in the year 2000 leaving behind his four sons namely, the petitioners herein, the respondent and another son Murugesan along with one daughter namely Jayakumari, who also died in the year 2005. Their father had purchased a flat admeasuring 1375 sq.ft. built up area together with undivided share in the land by a registered sale deed dated 15.05.1997. The petitioners' sister along with her family members entered into a Deed of Partition dated 09.05.1997 with regard to their ancestral properties including the property measuring 4476 sq.ft. situated at Nungambakkam, Chennai, in



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which their father and the 2nd petitioner herein, stood as witnesses. Soon after the execution of the release deeds dated 13.10.2003 and 14.10.2003, the petitioners herein had entered into a Deed of Exchange dated 15.10.2003, thereby they had exchanged their right over the property. In that place, the property admeasuring 2175 sq.ft. out of 4476 sq.ft. was owned by their sister and her family members which was of lesser value and accordingly, stamp duty was paid. The vast difference in valuation of the above property prima facie creates a strong suspicion with regard to the nature of the transfer. Thereby, the petitioners had cheated the Government and caused wrongful revenue loss. On the date of execution of Exchange Deed, their sister and her family members, who being the owners of the remaining land to an extent of 2301 sq.ft., had sold out the same in favour of one Rajammal for a very meager sale consideration and thereby, they caused extensive revenue loss to the Government Exchequer. The sale deed itself is a sham.

3. Further, it is alleged that there is no dispute that Tmt.Pattammal is the wife of T.K.Ramachandran i.e mother of the petitioners and the respondent, however, the parties have purposely conferred a wrong status on the said Rajammal, as wife of



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T.K.Ramachandran. Further, the 1st petitioner stood as witness in the said sale deed. Again, the 1st petitioner, being the owner of the half share of the undivided property measuring 2175 sq.ft., had executed a settlement deed in favour of the said Rajammal by recording her as wife of T.K.Ramachandran and mother of the 1st petitioner herein. In the said settlement deed, his sister's husband and another person stood as witnesses. As per the fraudulent sale deeds dated 15.10.2003 and 23.06.2004, the said Rajammal became the owner of the property to an extent of 3388.5 sq.ft. and the 2nd petitioner is the owner of the remaining extent of 1087.5 sq.ft. Further, in order to fulfill the terms hatched up in the criminal conspiracy, on the very next date of settlement deed dated 23.06.2004, another settlement deed dated 24.06.2004 was executed and the said Rajammal and Udayakumar had jointly settled the entire extent of 4476 sq.ft. situated at Nungambakkam, Chennai, in the name of minor sons of the 2nd petitioner, represented by their mother. The Registering Authority without verifying the status of the said Rajammal and without any proof to show that she is the mother of the petitioners, had mechanically registered the settlement deeds, which had caused heavy revenue loss to the Government and also conferred non-existing status on the stranger namely Rajammal for some ill motive.



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4. On the said complaint, the Inspector of Police, CCB,

Chennai, conducted an enquiry and thereafter, closed the complaint.

Therefore, the respondent approached this Court by filing a petition in Crl.O.P No.26974 of 2017 and this Court had set aside the closure report and directed the police to register a case, by an order dated 25.01.2018. Therefore, a FIR was registered in Crime No.122 of 2018 for the offences punishable under Sections 420, 466, 467, 468 and 469 IPC and Section 81, 82(a) and 83 of the Registration Act 1908. However, after completion of investigation, the FIR was closed as “Mistake of Fact”. Aggrieved by the same, the respondent filed a protest petition in Crl.M.P No.12786 of 2021. After considering the above facts and materials on record, the trial Court had taken cognizance for the offences under Sections 420, 466, 467, 468, 469 of IPC and Sections 81, 82(a) and 83 of Registration Act and issued summons. While being so, the petitioners filed a discharge petition to discharge them from the charges and the same was dismissed. Aggrieved by the same, the present revision is filed.

5. Mr.N.R.Elango, learned Senior Counsel appearing for the petitioners would submit that no charge is made out as against the

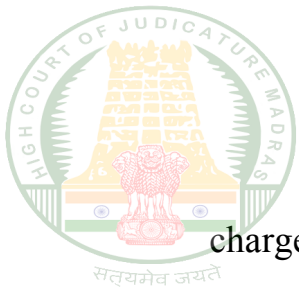


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petitioners. Even assuming that the said Rajammal is not their mother, it

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is not the case of the respondent that she is fictitious person or she impersonated their mother Pattammal. After the demise of their mother Pattammal, their father married the said Rajammal. Infact, her name appeared in all the records such as ration card, voter identity card, Life Insurance policy and other identity cards of the petitioners. Therefore, there is absolutely no loss to the Exchequer since the subject property was properly valued and a sale deed was executed. Initially, part of the property was sold out in favour of the said Rajammal and subsequently, it was settled in favour of the 2nd petitioner namely, the grand son of the said Rajammal. Therefore, after the registration of FIR in Crime No.122 of 2018, the Inspector of Police, CCB, Chennai, had rightly closed the case as “Mistake of Fact” after conducting a detailed investigation. He further submitted that the first complaint was closed as “Mistake of Fact” after registration of FIR in Crime No.122 of 2018. For the very same set of allegations, another complaint was lodged by the respondent. It was also closed as “Mistake of Fact” after enquiry. When the discharge petition was filed to discharge the accused, the trial Court ought to have seen whether there is any material available to frame charges against the accused. In the case on hand, absolutely no material exists to frame any



charge against the petitioners. Even according to the case of the prosecution, no charge has been made out by the petitioners. In support of his contention, the learned counsel for the petitioners relied upon the judgment in the case of **Vishnu Kumar Shukla and another vs. State of Uttar Pradesh and another** reported in **2023 I NSC 1026**, page 502 (para 19) in which it was held as follows:

“para-19

“10. Thus, on a consideration of the authorities mentioned above, the following principles emerge:

(1) That the Judge while considering the question of framing the charges under Section 227 of the Code has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out.

(2) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained the Court will be fully justified in framing a charge and proceeding with the trial.

(3) The test to determine a prima facie case would naturally depend upon the acts of each case and it is difficult to lay down a rule of universal application. By and large however if two views are equally possible



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and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

(4) That in exercising his jurisdiction under Section 227 of the Code the Judge which under the present Code is a senior and experienced court cannot act merely as a Post Office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities appearing in the case and so on. This however does not mean that the Judge should make a roving enquiry into the pros and cons of the matter and weight the evidence as if he was conducting a trial”.

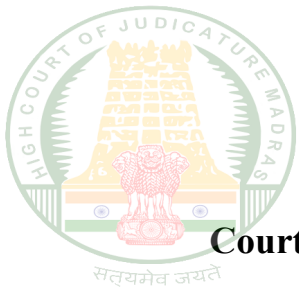
6. Per contra, the learned counsel for the respondent submitted that initially, the Inspector of Police, CCB, Chennai registered a FIR and closed the same as “Mistake of Fact”. Therefore, the respondent filed a protest petition and the same was taken cognizance by the trial Court directly and summons were issued. The first complaint was not considered properly and without even registering the FIR, it was closed. Therefore, the respondent was constrained to file a petition for



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direction before this Court and after arguments, as per the direction from this Court, the FIR got registered. Therefore, the present complaint cannot be construed as second complaint for the very same set of allegation. There is absolutely no records to show that the said Rajammal is the wife of late T.K.Ramachandran. Their father never got married to her and in order to grab the share of the respondent, the petitioners had created false documents that too, without any proper value by way of sale deed and settlement deed. Immediately after the next day of the sale deed, the said Rajammal had executed a settlement deed in favour of the 2nd petitioner. Therefore, all of them have conspired to cheat the Government Exchequer and evaded the stamp duty. Further, the discharge petition cannot be considered by way of producing defence documents. Only the materials produced by the respondent and the statements recorded before the trial Court can speak about the charges. Therefore, the documents which are produced before the trial Court as defence documents cannot be considered at the stage of discharge. In support of his contention, the learned counsel for the respondent relied upon the judgment in the case of **State by the Inspector of Police, Chennai Vs. S.Selvi and another** reported in **(2018) 13 Supreme**



Court Cases 455 in which, it was held as follows:

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8. *This Court in State v. A.Arun Kumar, Sony Gupta v. Deepak Gupta, State of Orissa & Debendra Natgh Padhi and State of T.N. v.N.Suresh Rajan has reiterated almost the aforementioned principles. However, in State of Haryana v.Bhajan Lal, relied upon by the counsel for Respondent 1 is not applicable to the facts of the case inasmuch as the said matter arose out of the judgment of the High Court quashing the entire criminal proceedings inclusive of the registration of first information report. The said matter was not concerned with the discharge of the accused.*

9. *In the matter on hand, the main allegation against the first respondent-Accused 2 as found in the charge-sheet is that while the complainant along with the relevant documents proceeded to the residence of Accused 1 and 2 at Door No.28, West Gopalapuram, Chennai-86, to get back his money due to him on 20.09.2011, at about 17.30 hours, Accused 1 and 2 threatened the complainant, snatched away the documents from him, denied him permission to enter into their house. IT is relevant to note that in the complaint dated 21.09.2011 it is stated that when the complainant went to West Gopalapuram and met the accused for an enquiry about payment, the accused got furious, beat him and with the help of four henchmen pushed him out of their house. On the basis of these*



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discrepancies, the contention of the learned counsel for the accused that the case as made out by the prosecution cannot be believed inasmuch as the material on record is not consistent. It may give rise to some suspicion but not grave suspicion, though appears to be attractive, but is not acceptable in view of entire material on record. On going through the judgment of the High Court, we find that the High Court has virtually appreciated the entire material on record as if the High Court is trying a criminal case. It would be difficult to lay down the rule of universal application as to how the prima facie case should be determined. Though the Judge has got power to sift and weigh the evidence, such sifting and weighing evidence is for the limited purpose of finding out whether or not a prima facie case against the accused has been made out for framing of charge. The test to determine a prima facie case would naturally depend upon the facts of each case. At this preliminary stage, the High Court was not justified in concluding that the accused is entitled for discharge merely on the ground of discrepancy in the timings of the incident. The question as to whether Respondent I was present on the place of incident or not during the relevant point of time or she had been in Calcutta as sought to be argued before this Court is a matter of proof. Such facts needs to be gone into by the trial Court after recording the evidence.



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10. If on the basis of the material on record, this Court would form prima facie opinion that the accused might have committed the offence, it can frame charge, though for conviction it is required to be proved beyond reasonable doubt that the accused has committed

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

8. Both the petitioners are arrayed as A1 and A2. Though initially FIR got registered against four persons, the learned Magistrate had taken cognizance only against the petitioners herein for the offences punishable under Sections 420, 466, 467, 468, 469 of IPC and Sections 81, 82(a) and 83 of the Registration Act, 1908. The petitioners, respondent and one Murugesan are the sons of their father late T.K.Ramachandra Mudaliar and mother late Pattammal. Both died in the year 2000. There are properties owned by their father T.K.Ramachandran including the property which was purchased by his father, a flat situated at Nungambakkam, Chennai by a sale deed dated 15.05.1997. Their sister one Jayakumari and his husband along with their two sons had entered into a partition deed dated 09.05.1997 in respect of their



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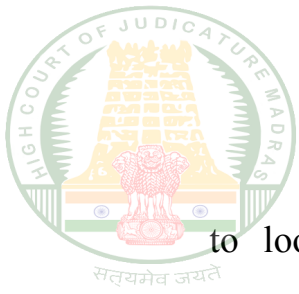
ancestral properties including the property measuring 4476 sq.ft. situated at Nungambakkam, Chennai, in which the said T.K.Ramachandran and the 2nd petitioner stood as witnesses. Therefore, the petitioners had executed two released deeds dated 13.10.2003 and 14.10.2003. Thereafter, both had entered into a Deed of Exchange by exchanging their right over the flat which was purchased by their father by getting the property measuring 2175 sq.ft. out of ancestral property measuring 4476 sq.ft. owned by the said sister and her husband along with the family members. The flat was valued at Rs.17,76,000/- and the same was exchanged for the property worth of Rs.64,95,195/- to an extent of 2175 sq.ft. situated at Nungambakkam, Chennai. Therefore, prima facie created a strong suspicion with regard to the nature of the exchange and thereby, the petitioners had caused wrongful revenue loss to the Exchequer. On the very same date of execution of the exchange deed, their sister and her family members had executed a sale deed in respect of the remaining property admeasuring 2301 sq.ft. in favour of one Rajammal for only Rs.5 lakhs as sale consideration. The guideline value itself comes to Rs.56,74,614/-. However, the sale deed was valued at Rs.20,87,861/- and was sold for the sale price of Rs.5,00,000/- thereby, causing huge revenue loss to the Government Exchequer.



9. In the sale deed, the said Rajammal was shown as wife of

WEB COPY T.K.Ramachandran, who is their father. It is not in dispute that one Tmt.Pattammal is their mother and got married to T.K.Ramachandran. However, in the sale deed, they mentioned the said Rajammal as wife of T.K.Ramachandran. In the said sale deed, the 1st petitioner herein stood as one of the witnesses. Once again, the 1st petitioner, being the owner of half share over the undivided property measuring 2175 sq.ft. which was exchanged between the petitioners, had settled it in favour of the said Rajammal by way of a settlement deed dated 26.03.2004 in which the said Rajammal was mentioned as wife of T.K.Ramachandran and the mother of the 1st petitioner herein. By way of the said sale deed and settlement deed, the said Rajammal became the owner of the property to an extent of 3388.5 sq.ft. and the 2nd petitioner owned the remaining extent of property measuring 1087.5 sq.ft.

10. It is also very curious to note that the very next day, by way of a settlement deed dated 24.06.2004, the said Rajammal had settled the entire extent of the property admeasuring 3388.5 sq.ft. in favour of the sons of the 2nd petitioner herein. As rightly pointed out by the learned counsel for the respondent, the Registering Authority failed



to look into the relationship between the said Rajammal and the petitioners herein. The petitioners ought to have produced sufficient documents to prove that Rajammal is their mother. Admittedly, the petitioners did not give a single piece of evidence to that effect.

11. The Registering Authority also without verifying any documents registered the settlement deed executed by the 1st petitioner in favour of the said Rajammal and subsequently, the said Rajammal had executed a settlement deed in favour of the sons of the 2nd petitioner. Before that, the said sale deed was executed in favour of the said Rajammal valuing the property following the then guideline value. Therefore, the petitioners had given false declaration in the documents and have not only caused heavy revenue loss to the Government, but have also given false status to a stranger namely Rajammal with an ill motive, thereby committing the following fraudulent transactions:

a. Property worth of Rs.64,95,195/- had been exchanged for the property worth Rs.17,76,000/- under the bogus exchange deed dated 15.10.2003 at the instance of R.Vijayakumar R.Udayakumar and their associates.



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b. The property worth more than Rs.56,74,614/- as per the guideline value had been sold for a paltry sum of Rs.5 lakhs under the bogus sale deed dated 15.10.2003. This apparent fraud was unnoticed for known reasons.

c. The parties to the sale deed dated 15.10.2003 knew well about the value, but it was registered for the very low value to deceit the registration department and thereby caused extensive monetary revenue loss to the Government.

d. Besides the revenue loss to the Government, the parties to the sale deed including the witnesses signed purposely chose to confer a status on one Rajammal as the wife of late T.K.Ramachandran. In fact, the vendors, purchaser and attestors were all aware of the undisputed fact that one Tmt.Pattu is the wife of late T.K.Ramachandran.

e. In the bogus settlement dated 23.06.2004 one R.Vijayakumar being the son of Tmt. Pattu and Thiru.T.K.Ramachandran had fraudulently referred the name of one Rajanammal as the wife of T.K.Ramachandran. It was also witnessed by one N.Logachandar, S/o.Namachivayam and Jayakumari.

f. In the said fraudulent settlement deed dated 23.06.2004 the above named R.Vijayakumar has purposely included the recital to that effect that the so called settlee Rajammal is his Mother. It is highly



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unfortunate that the said R.Vijayakumar knowingly forgotten his status as the son of Tmt.Pattu and agreed to confer the status of one Rajamall without any sense.

g. Again on the very next date i.e 24.06.2004, one R.Udayakumar, 4th son of T.K.Ramachandran, and Tmt.Pattu along with stranger by name Rajammal jointly executed one more fraudulent settlement deed. Document No.791 of 2004 in favour of his two minor sons namely V.Saravanakumar and U.Sabarikumar. The said R.Udayakumar is an educated man who is serving in the police department has agreed to recognize a third party as his mother, and also grand mother of his two sons.

h. Admittedly, guideline value of the property was more than Rs.1.15 crores, but the value was mentioned as Rs.1 lakh in the said bogus settlement deed dated 24.06.2004. The said fraud has been played only with a view to avoid the payment of proper stamp duty.

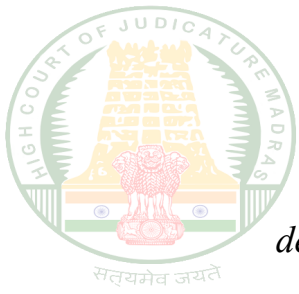
i. The above group of persons namely R.Udayakumar, R.Vijayakumar, Rajammal, P.Namachiavayam and N.Logachandar entered into a criminal conspiracy with a view to defraud the registering officer under the disguise of committing an act of impersonated with a view to cause huge loss to the Government Exchequer.



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12. Though the learned Senior Counsel for the petitioners produced the ration card and identity card to show that the said Rajammal is the mother of the petitioners, it can be considered and tested only before the trial Court during the trial. That apart, the discharge petition cannot be entertained on the strength of the defence documents. Therefore, the judgment relied upon by the learned Senior Counsel for the petitioners is not helpful to the case on hand. In this regard, the learned counsel for the respondent relied upon the judgment in the case of **State of Orissa Vs. Debendra Natha Padhi** reported in **(2005) 1 Supreme Court Cases 568**, in which it was held as follows:

25. Any document or other thing envisaged under the aforesaid provision can be ordered to be produced on finding that the same is “necessary or desirable for the purpose of investigation, inquiry, trial or other proceedings under the Code”. The first and foremost requirement of the section is about the document being necessary or desirable. The necessity or desirability would have to be seen with reference to the stage when a prayer is made for the production. If any document is necessary or desirable for the defence of the accused, the question of invoking Section 91 at the initial stage of framing of a charge would not arise since



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defence of the accused is not relevant at that stage. When the section refers to investigation, inquiry, trial or other proceedings, it is to be borne in mind that under the section a police officer may move the court for summoning and production of a document as may be necessary at any of the stages mentioned in the section. Insofar as the accused is concerned, his entitlement to seek order under Section 91 would ordinarily not come till the stage of defence. When the section talks of the document being necessary and desirable, it is implicit that necessity and desirability is to be examined considering the stage when such a prayer for summoning and production is made and the party who makes it, whether police or accused. If under Section 227, what is necessary and relevant is only the record produced in terms of Section 173 of the Code, the accused cannot at that stage invoke Section 91 to seek production of any document to show his innocence. Under Section 91 summons for production of document can be issued by court and under a written order an officer in charge of a police station can also direct production thereof. Section 91 does not confer any right on the accused to produce document in his possession to prove his defence. Section 91 presupposes that when the document is not produced process may be initiated to compel production thereof”.



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Thus, it is clear that the accused has no right to produce any document at the stage of framing of charges having regard to the clear mandate of Sections 227 and 228 in Chapter 18 and Section 239 and 240 in Chapter 19 of Cr.P.C.

13. Further, while framing the charges, the trial Court can only look into the materials produced by the prosecution by giving an opportunity to the accused to show that the said materials were insufficient for the purpose of framing charges. Therefore, the trial Court cannot reopen the matter on the basis of the documents produced by the prosecution at the instance of the accused and the trial Court has rightly dismissed the discharge petition filed by the petitioners and this Court finds no infirmity or illegality in the order passed by the trial Court.

14. Accordingly, this Criminal Revision is dismissed.

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To

The Metropolitan Magistrate, CCB & CBCID Cases Court (Metro Cases)
Egmore, Chennai.



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G.K.ILANTHIRAIYAN,J
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Pre-Delivery Judgment in
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