

Crl.OP.No.16423 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.03.2025

Pronounced on : 28.03.2025

CORAM:

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

Crl.O.P.No.16423 of 2023

and

Crl.MP.No.10495 of 2023

Devendran

... Petitioner

Vs.

1. The State Represented by
The Inspector of Police,
Puzhal Police Station,
Madhavaram, Chennai.
(Cr.No.736 of 2022)

2. P.Praveen Kumar
(R2 impleaded as per order dated
01.08.2023 in Crl.MP.No.11397 /2023
in Crl.OP.No.16423 of 2023)

... Respondents.

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Cr.No.736 of 2022 pending on the file of the respondent police and quash the same against the petitioner.



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For Petitioner : Mr.R.Vivekananthan
For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)
for R1
: Mr.P.Praveen Kumar
(Party-in-Person-R2)

ORDER

This petition has been filed to quash the F.I.R. in Crime No. 736 of 2022 registered by the first respondent police.

2(i). The case of the prosecution is that the second respondent/defacto complainant is the brother of first accused by name Prem Kumar. The first accused had settled along with his wife in United Kingdom (London). While being so, on 28.01.2022, the father of the first accused and the second respondent/defacto complainant died intestate, leaving behind them as his legal heirs. On 01.02.2022, the first accused has filed an on-line application seeking issuance of legal heirship certificate in the name of the second respondent/defacto complainant without his consent that too by forging his signature.



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2(ii) The further case of the prosecution is that on receipt of such application, the Revenue Officials have visited the second respondent's/defacto complainant's house for field verification on 07.02.2022. Thereafter, the second respondent/defacto complainant came to understand that his signature was forged and fraudulently applied for legal heirship certificate.

2(iii) It is also the case of the prosecution that the first accused has come from London and obtained legal heirship certificate by furnishing false documents i.e., Pancard, Address Proof from the Taluk Office, Purasawalkam. The third accused/petitioner herein has facilitated the first accused/brother of the second respondent/defacto complainant to commit the offence. Hence, the second respondent/defacto complainant has lodged a complaint before the respondent police against the petitioner and others.

3. Based on the complaint lodged by the second respondent/defacto complainant, the first respondent has registered an FIR



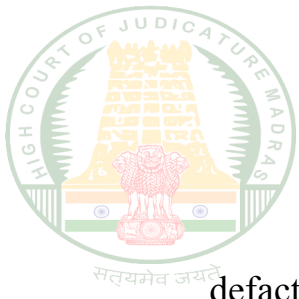
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against the petitioner and others in Cr.No.736 of 2022 for the offences under Sections 465, 467, 468, 471, 420 and 34 of IPC and C.S.R.No.156 of 2022 was issued to the second respondent/defacto complainant.

4(i). The learned counsel appearing for the petitioner submits that there is no specific overt act as against the petitioner, except his name in the FIR. Since he is the family member of the first accused, he has been falsely implicated in this case and as far as his daughter/A2 and son-in-law/A1 are concerned, at the time of occurrence they were in London.

4(ii) The learned counsel appearing for the petitioner submits that on 11.08.2021, the petitioner herein has lodged a complaint before the CCB-1, Chennai as against the second respondent/defacto complainant and one Perumal for the offences under Sections 420, 465, 468, 120B of IPC in Cr.No.158 of 2021 and the same is pending investigation. He further submits that aggrieved over the same, the



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defacto complainant has lodged the present complaint before the respondent police implicating the petitioner to wreck vengeance upon the petitioner. Further, he states that there is no material evidence to prove the commission of any of the offences made against the petitioner in the FIR and hence, the same is liable to be quashed as against the petitioner.

4(iii) The learned counsel for the petitioner further submits that later the first accused/brother of the second respondent has filed a fresh application in his name and obtained legal heirship certificate by furnishing all the required documents. The application which was allegedly filed by the first accused was not acted upon. Even assuming that the said application was considered and the petitioner was issued legal heirship certificate for the demise of their father Perumal, the Revenue Officials issued legal heir ship consisting of both the first accused and the second respondent herein as his legalheirs. In pursuance to issuance of legal heirship certificate, it was not used for any purpose.

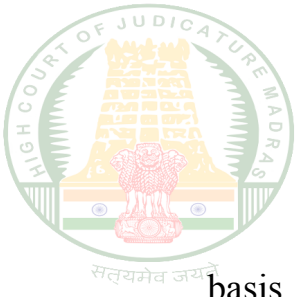


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5. The learned counsel for the petitioner in support of his contentions, relied upon the judgement of the Hon'ble Supreme Court of India reported in 2024 SCC on-line SCC 58 rendered in ***Mariam Fasihuddin and another Vs. State by Adugodi Police Station and another*** in which, the Hon'ble Supreme Court held that the forgery and cheating committed with an intention to deceive or cheat an individual, the offence under Section 468 and 420 of IPC can attract. If there is no dishonest to intent to commit forgery and without intent to deceive or cheat an individual, the offence under Section 468 and 471 and 420 are not made out.

6(i). The second respondent appeared before this Court (party-in-person) and submits that the first accused forged his signature and applied for issuance of legal heirship certificate on the demise of their father Perumal. On receipt of the said application, the Revenue Officials have visited for verification, the second respondent/defacto complainant came to understand that his signature was forged and filed application for issuance of legal heirship certificate. Only on the



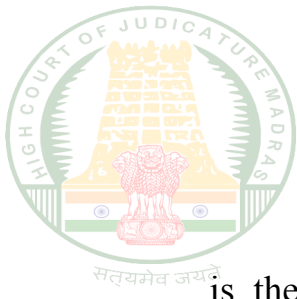
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basis of the complaint, the second respondent was initially issued C.S.R.No.156 of 2022. Thereafter, conducting preliminary enquiry, the first respondent has registered an FIR. The FIR cannot be quashed on its threshold and has to investigate in depth to find out the truth.

6(ii)The second respondent further submits that the person who impersonated the second respondent has filed anticipatory bail petition before this Court in Cr.No.736 of 2022 and the same was dismissed. Infact after conducting preliminary enquiry and obtained legal opinion by the first respondent, FIR has been registered in Cr.No.736 of 2022 for the offences under Sections 465, 467, 468, 471 and 420 of I.P.C r/w Section 34 of IPC. Hence, he prays for dismissal of the petition.

7. The learned Government Advocate (CrI.Side) appearing for the respondent police reiterated the prosecution case and on getting instructions from the Investigating Officer submits that the petitioner



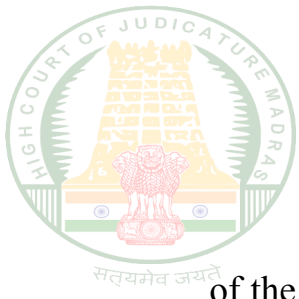
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is the father-in-law of the first accused and father of the second accused respectively. Both the first and second accused had settled in London and they are the citizens of United Kingdom. He confirms that after complaint, the first accused has filed an application for issuance of legal heirship certificate in his name, annexing all relevant revenue documents and on receipt of the same, the Revenue Authorities has issued legal heirship certificate, in which the first accused and the second respondent are the only the legal heirs of the deceased Perumal.

8. Heard the learned counsel for the petitioner, the second respondent (party-in-person) and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

9(i). A perusal of records reveals that there are totally three accused involved in this case, in which the petitioner is arrayed as A3/third accused. The petitioner is none other than the father-in-law



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of the first accused and the father of the second accused. The first and second accused are living in London. The first accused and the second respondent are brothers. Their father's name is Perumal and their mother predeceased his father.

9(ii). Admittedly, the first accused and the second respondent are brothers and they are the only legal heirs of the deceased Perumal. Initially, the first accused made an application in the name of the second respondent for issuance of legal heirship certificate of their demised father Perumal. However, after complaint, the first accused has filed application for issuance of legal heirship certificate in his name, annexing all relevant revenue documents.

9(iii) On receipt of the same, the Revenue Authority has issued legal heirship certificate, in which the first accused and the second respondent are the only the legal heirs of the deceased Perumal. Even assuming that on the application filed by the first accused in the name of the second respondent, the legal heirship certificate was



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issued, it is nothing to do with the other allegations. The first accused has produced all relevant revenue records showing the first accused and the second respondent alone are the legal heirs of their demised father Perumal.

10. At this juncture, it is relevant to rely upon the judgments reported in 2024 SCC on-line SCC 58 rendered in ***Mariam Fasihuddin and another Vs. State by Adugodi Police Station and another***, the following Paragraph Nos.33 and 34 are extracted hereunder.

" *The offence of forgery under Sections 468 and 471 of IPC:*

33. The offence of 'forgery' under Section 468 IPC postulates that whoever commits forgery, intending that the document or electronic document forged, shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Whereas Section 471 IPC states that whoever fraudulently or



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dishonestly uses as genuine any documents which he knows or has reason to believe it to be a forged document, shall be punished in the same manner as if had forged such document.

34. There are two primary components that need to be fulfilled in order to establish the offence of " forgery" namely (i) that the accused has fabricated an instrument; and (ii) it was done with the intention that the forged document would be used for the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of causing damage or injury".

11. The above judgement is squarely applicable to the case on hand. Thus, it is clear that in order to attract the offence under Sections 468 and 471 of IPC, there are two primary components that need to be fulfilled in order to establish the offence of ‘forgery’, namely:



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"....(i) that the accused has fabricated an instrument; and

(ii) it was done with the intention that the forged document would be used for the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of causing damage or injury"....

Therefore, the offence of forgery requires the preparation of false document with the dishonest intention of causing damage.

12. As far as forgery is concerned, the offences of 'forgery' and 'cheating' intersect and converge, as the act of forgery is committed with the intent to deceive or cheat an individual. In so far as cheating is concerned, it stands established that no dishonest intent can be made out as against the petitioner.

13. Even according to the second respondent, the first accused has applied for issuance of legal heirship certificate by producing various revenue documents, the second respondent has also included as legal heirs of their demised father Perumal.



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14. That apart, as far as the petitioner is concerned, he is the father-in-law of the first accused and the father of the second accused, except this relationship, there is absolutely no allegations as against the petitioner to felicitate the other accused persons for committing the offence. It is nothing but counter blast to the complaint filed by the first accused against the second respondent which resulted in registration of FIR in Cr.No.184 of 2021 Cr.No.1860 and Cr.No.158 of 2021.

15. It is relevant to extract the provisions under Section 420 of the Penal Code as follows :-

420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with



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imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

The ingredients to constitute an offence under Section 420 of IPC are as follows :-

- (i) A person must commit the offence of cheating under Section 415 and
- (ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

16. 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*** reported in (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



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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.

17. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh*** reported in ***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



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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.”

18. It is relevant to rely upon the land mark Judgment of the Hon'ble Supreme Court of India in the case of ***State of Haryana and others Vs. Bhajanlal and others*** reported in ***1992 Supp (1) SCC 335***, in which, the Hon'ble Supreme Court of India has laid down the following categories of instances wherein inherent powers can be exercised in order to secure the ends of justice as follows:-

“(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by



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police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there



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is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

19 .In view of the above, the entire FIR is nothing but clear abuse of process of law and cannot be sustained not only against the petitioner and also against A1 and A2 though the petitioner alone filed this petition, in the interest of justice. Therefore, the FIR registered in Cr.No.736 of 2022 cannot be sustained as against all accused and it is liable to be quashed. Accordingly, it is hereby quashed.



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20. In the result, this Criminal Original petition is allowed.

Consequently, the connected miscellaneous petition is closed.

28.03.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Vv

To

1. The Inspector of Police,
Puzhal Police Station,
Madhavaram, Chennai.
2. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

Vv

**Pre-delivery Order
made in
Crl.O.P.No.16423 of 2023**

28.03.2025