



Crl.R.C.No.853 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM:

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

Crl.R.C.No.853 of 2025
and Crl.M.P.No.11657 of 2025

G.Krishnamurthy

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
ALGSC Team II Police Station,
Crime No.30 of 2013
Chennai District.

... Respondent

PRAYER: Criminal Revision has been filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to set aside the order dated 07.02.2025 made in Crl.M.P.No.919 of 2024 in C.C.No.217 of 2023 on the file of the learned Judicial Magistrate No.1, Poonamallee, by allowing this Criminal Revision Petition.

For Petitioner : Mr.R.Darshan

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. Side)



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ORDER

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This Criminal Revision has been preferred challenging the order dated 07.02.2025 passed by the learned Judicial Magistrate No.1, Poonamallee, in Crl.M.P.No.919 of 2024 in C.C.No.217 of 2023, thereby dismissing the petition to discharge the petitioner.

2. The case of the prosecution is that the defacto complainant is the great granddaughter of one Vaithiyalinga Naickar, who had allegedly executed a Will dated 11.02.1976 registered vide document No.12 of 1976, thereby bequeathing 8.57 acres of lands comprised in various survey numbers situated at Poonamallee Village, in favour of his great grand children, reserving life interest to his brother's wife, his three wives, one daughter and grandsons. After execution of Will, the said Vaithiyalinga Naickar died on 24.11.1981. Thereafter, a power of attorney dated 07.10.1997 registered vide document No.172 of 1997 was executed by all the family members of the said Vaithiyalinga Naickar in favour of the third accused in respect of the lands comprised in S.F.No.347 to an extent of 0.29 cents out of 1.78 acres, suppressing the Will dated 11.02.1976.



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On the same day, another power of attorney was executed by all the family members vide document No.173 of 1997, in favour of A1 & A2 including the properties which were bequeathed in the Will. In turn, the first and second accused had set up their servants viz., A7 & A8 and had executed sale deeds in their favour on 30.03.1998 vide document Nos.340 & 347 of 1998, in respect of the land comprised in survey No.307 to an extent of 48 cents each. In turn, on the very next day i.e., on 31.03.1998, A7 & A8 had executed four sale deeds in favour of A1 & A2 registered vide document Nos.349, 354, 357 & 358 of 1998, to an extent of 24 cents each. Thereafter, the first and second accused had set up ninth accused and executed sale deed in his favour on 28.03.2000 vide registered sale deed vide document No.365 of 2000 in respect of the plot No.1 ad measuring 1440 sq.ft., comprised in S.F.No.302. In turn, A9 once again sold out the very same property in favour of A1 & A2 by the registered sale deed dated 04.04.2000 vide document No.421 of 2000.

4. Apart from that, the another power holder viz, the third accused had executed sale deed dated 15.09.2011 vide document No.2418 of 2011 in favour of his mother, who arrayed as A4, even after demise of some of the principals in the year 2005 & 2007. Thereafter, the fourth accused had



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executed settlement deed in favour of fifth accused on 27.09.2011 registered vide document No.2516 of 2011. While being so, once again the first and second accused by way of second power of attorney, sold out the plot Nos.1A & 1B comprised in S.F.No.347 in favour of A10 and A11 by two registered sale deeds dated 17.04.2008 & 30.04.2008 vide document Nos.854 & 1328 of 2008. Further, they sold out a plot comprised in S.F.No.389/1 in favour of one R.Krishnamurthy S/o. Ramasamy, by the registered sale deed dated 25.03.2010 vide document No.546 of 2010. These sale deeds are executed by A1 & A2 through power of attorney by defrauding the legitimate claim of the defacto complainant through Will dated 11.02.1976, executed by her grate grandfather Vaithiyalinga Naickar. The petitioner is arrayed as A12. According to the case of the prosecution, the petitioner purchased plot through power of attorney by the registered sale deed dated 26.05.2004 registered vide document No.913 of 2004. Hence the complaint.

5. On receipt of the complaint, the respondent registered the FIR in Crime No.30 of 2013 for the offences punishable under Section 120B, 448, 465, 468, 471, 419, 420 r/w 34 IPC. After completion of investigation, they filed final report and the same was taken cognizance by the trial Court in C.C.No.217 of 2023. The petitioner filed a petition to discharge him from all



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charges and the same was dismissed by the trial Court. Aggrieved by the same,

the petitioner filed the present revision.

6. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent purchaser for the valid sale consideration from the power holder, in respect of the plot No.3B ad measuring 3030 ½ sq.ft., comprised in S.F.No.347 situated at Poonamallee Village by the registered sale deed dated 26.05.2004 vide document No.913 of 2004. All the legal heir of the executant of Will including the mother of the defacto complainant appointed the power of attorney by the deed dated 07.10.1997, in respect of the property comprised in S.F.No.347 situated at Poonamalle Village. Thereafter, the entire property was laid out and approved by CMDA. In the said lay out, the petitioner had purchased one plot viz., plot No.3B, from A1 & A2 for valid sale consideration. Unfortunately, the prosecution arrayed the petitioner as an accused by mistaken identity with one another person viz., R.Krishnamurth S/o. Ramasamy, who had purchased a plot in the comprised in S.F.No.389/1 registered vide document No.545 of 2010 dated 25.03.2010. Further, the petitioner is in no way connected with the said person and without any materials, the petitioner now has been arrayed as accused.



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7. The learned Government Advocate (CrI. Side) appearing for the respondent submitted that one Vaithiyalinga Naickar had owned ancestral property and he had executed a Will in favour of his legal heirs. A1 & A2 imprisoned the legal heirs and fabricated the power of attorney in their favour with an intention to grab the property. Thereafter, they colluded with other accused persons and sold out the entire property in the capacity of invalid power of attorney. The impersonator brought the mother in the place of grand mother and prepared the forged document and registered the same vide document No.942 of 2002. After investigation, the respondent filed final report as against all the accused persons, in which the petitioner is arrayed as A12. Admittedly, he is one of the purchaser and he also conspired with other accused persons in order to cheat the beneficiary under the Will, without any valid sale consideration. Therefore, there are specific allegations and materials available to frame the charges as against the petitioner. Hence, the trial Court rightly dismissed the discharge petition and it doesn't warrant any interference from this Court.

8. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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9. On perusal of the records, it is revealed that there are totally 12 accused in which, the petitioner is arrayed as A12. The petitioner had purchased a plot from A1 & A2, who are being the power holders in respect of the plot No.3B to an extent of 3034½ Sq.ft., comprised in survey No.347 situated at Poonamallee Village by the registered sale deed dated 26.05.2004 vide document No.913 of 2004. According to the prosecution, the petitioner also conspired with A1 & A2, purchased the property without any sale consideration.

10. The subject property originally bequeathed by one Vaithiyalinga Naickar by the Will dated 11.02.1976 in respect of the land ad measuring 8.57 acres comprised in several survey numbers situated at Poonmallee village, in favour of his grate grand children, reserving life interest to his brother's wife, his three wives, one daughter and some of the grand children. After execution of the Will, he died on 24.11.1981. While being so, all the beneficiary under the Will had executed power of attorney in respect of the land comprised in S.F.No.347 for an extent of 0.29 cents out of 1.78 acres suppressing the Will dated 11.02.1976 in favour of the third accused. On the very same day, another power of attorney was executed in favour of A1 & A2 by the family members



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in respect of the property mentioned in the Will dated 11.02.1976. Therefore,

the said power of attorney, they had sold out the property to an extent of 96 cents in favour of A7 & A8 by the registered sale deed dated 30.03.1998 vide document Nos.340 & 347 of 1998. In turn, they had executed sale deed in favour of A1 & A2 by four registered sale deeds, each for 24 cents, dated 31.03.1998 vide document Nos.349, 354, 357 & 358 of 1998. Thereafter, the entire land was laid out and one of the plots was sold out in favour of A9. Subsequently, A9 sold out the said property once again to A1 & A2.

11. Similarly, the first power holder, through power of attorney dated 07.10.1997, had executed sale deed dated 15.09.2011 in favour of his mother, who arrayed as A4, even after demise of some of the principals. In turn, A4 had executed settlement deed in favour of A5. Meanwhile, A1 & A2, through the second power of attorney dated 07.10.1997, sold out a plot Nos.1A & 1B comprised in SF.No.347 in favour of A10 & A11 by the registered sale deed dated 17.04.2008 and 30.04.2008. Another plot was sold out in favour of one R.Krishnamurthy, S/o.Ramasamy comprised in S.F.No.389/1, by the registered sale deed dated 25.03.2010 vide document No.546 of 2010.



WEB COPY12. Insofar as the petitioner is concerned, he is G.Krishnamurthy, S/o.Gangappa. Admittedly, he purchased house plot No.3B to an extent of 3034 ½ Sq.ft., comprised in S.F.No.347 from the first and second accused in the approved lay out by the registered sale deed dated 26.05.2004 vide document No.913 of 2004 for valid sale consideration. After purchase, the petitioner is in possession and enjoyment of the said property.

13. The main case of the prosecution is that, some of the properties which were bequeathed in favour of the great granddaughter of the said Vaithiyalinga Naickar, have been sold out, by creating forged power of attorney in favour of A1 & A2, to various third parties. After forming lay out, the several persons had purchased their respective plots. Except the petitioner, no one has been arrayed as an accused. The said R.Krishnamurthy, S/o. Ramasamy had purchased plot in S.F.No.389/1 by the registered sale deed dated 25.03.2010 from A1 & A2.

14. Further on perusal of the records including the encumbrance certificate of the subject land, it is revealed that several persons had purchased their respective plots from the approved lay out through power of attorney. In



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fact, the petitioner had purchased the plot from A1 & A2. The specific case of the prosecution is that the land which was included in the Will is also given power of attorney in favour of A3 and in turn he sold out the property to various third parties.

15. Insofar as the land which was purchased by the petitioner from A1 & A2, he is a bonafide purchaser and there is absolutely no material to show that the petitioner had also colluded with other accused persons and purchased the house plot. No one has spoken about the role played by the petitioner herein to attract the offence of conspiracy with other accused persons. The petitioner, being a bonafide purchaser, has nothing to do with the allegation levelled as against the other accused persons. Therefore, there is no material available to frame charges as against the petitioner. However, without considering the above facts and circumstances, the trial Court mechanically dismissed the petition to discharge the petitioner. Hence, the order passed by the trial Court cannot be sustained and is liable to be set aside.

16. Accordingly, the order dated 07.02.2025 passed by the learned Judicial Magistrate No.1, Poonamallee, in CrI.M.P.No.919 of 2024 in C.C.No.217 of 2023, is hereby set aside and the petitioner is discharged from



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all the charges in C.C.No.217 of 2023 on the file of the learned Judicial

Magistrate No.1, Poonamallee.

17. In the result, the Criminal Revision Case stands allowed.

Consequently, connected miscellaneous petition is closed.

20.06.2025

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

To

1. The Judicial Magistrate No.1,
Poonamallee,

2. The Inspector of Police,
ALGSC Team II Police Station,
Chennai District.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

rts

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