IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2025

CORAM:

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

Crl.R.C.No.1011 of 2025
and
Crl.M.P.No.13391 of 2025

A.Veeravel ..... Petitioner

Vs

1. Maruthai

2. The State of Tamil Nadu,
Represented by
The Deputy Superintendent of Police,
District Crime Branch,
Ariyalur, Ariyalur District.

3. The State of Tamil Nadu
Represented by
The Inspector of Police,
District Crime Branch,
Ariyalur, Ariyalur District
Crime No.03 of 2019. ..... Respondents

Prayer: Criminal Revision is filed under Section 438 r/w 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the entire records in so far relates to order passed in Crl.M.P.No.146 of 2025, dated 06.06.2025 on the file of the Judicial Magistrate No.II, Jayankondam, Ariyalur District and set aside the same.

For Petitioner : Mr.C.Prakasam
For R1 : Mr.K.Premkumar
For R2 and R3 : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been preferred as against the order dated 06.06.2025 passed in Crl.M.P.No.146 of 2025 on the file of the Judicial Magistrate No.II, Jayankondam, Ariyalur District, thereby ordered further investigation and refused to accept the closure report in Crime No.03 of 2019 on the file of the third respondent.

2. The first respondent lodged a complaint alleging that he and his family members had availed loan from City Union Bank, Vilandai Branch, Andimadam, Ariyalur District. The Manager directed the first respondent to approach the petitioner herein for submission of documents. The first respondent applied for over due loan facilities for construction of an Open Space Reservation building under various loan accounts and availed over due facility for a sum of Rs.2,10,00,000/-. However, the petitioner did not receive the entire amount and the accused misappropriated a sum of Rs.1,28,30,395/-.

3. Pursuant to the said complaint, the third respondent registered an FIR in Crime No.3 of 2019 for the offences punishable under Sections 120B, 419, 420, 409, 424, 466, 468, 477A and 506(i) of IPC. During the course of investigation, the third respondent had examined 19 witnesses and recorded their statements under Section 161 of Cr.P.C. It revealed that the first respondent availed a loan in the name of Sri Varaaha Steels to the tune of Rs.35,00,000/- and in addition to that availed further sum of Rs.25,00,000/-. Even before availing the said loan, in the year 2016 to 2018, the first respondent had availed nine loans to the tune of Rs.54,40,000/-. There were business transactions between the first respondent and the petitioner herein. In the course of the said transactions, an amount of Rs.52,36,495/- was transferred through bank account to the first respondent and his family members accounts as well as to the account of the petitioner herein.

4. The crux of the allegations is that, without obtaining the signature of the first respondent in the challan, the loan amount was disbursed to the third parties. However, all the transactions took place only with the knowledge of the first respondent. In fact, only on the instructions given by the first respondent, all the transactions have been

done. That apart, after availing the said loan, the first respondent had put up construction to the value of Rs.1,98,00,000/-. Threfore, no offence was made out and the FIR was closed as "Further Action Dropped". However, the first respondent did not file any protest petition against the closure report. The first respondent directly approached this Court in Crl.O.P.No.14609 of 2021. This Court, by an order dated 30.08.2022, dismissed the petition and the first respondent was given liberty to file a protest petition on the closure report before the concerned Court. Accordingly, the first respondent, along with his wife and father, filed protest petitions. The Trial Court refused to accept the closure report filed in Crime No.03 of 2019 and ordered further investigation by an Investigating Officer not below the rank of the Deputy Superintendent of Police in accordance with law. Further, the Investigating Officer was further directed to complete the investigation and file a final report within a period of three months. Aggrieved by the same, the present Criminal Revision has been filed.

5. The petitioner is arrayed as second accused in Crime No.03 of 2019. The loan transactions in question pertain to the period

between 25.07.2016 and 19.1.2016. After the lapse of three years from the said transactions, the first respondent lodged a complaint. The Trial Court refused to accept the closure report and ordered further investigation on the ground that the Investigating Officer had omitted certain transactions in favour of the petitioner herein to the tune of Rs.28,00,000/- from the account of the first respondent. Such transactions amounted to misappropriation and were contrary to the banking norms. Out of 20 transactions, 10 transactions were said to have been carried out with forged signatures, allegedly signed by the petitioner herein, which resulted in substantial financial loss to the first respondent herein. The said transactions had been effected without proper authorization. As per the banking norms, transferring funds from the customer account to third parties, without a signed challan would prima facie amount to misappropriation. Therefore, since the investigation had not been conducted properly, the Trial Court directed further investigation.

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

7. On perusal of the records, as pointed out by the learned

counsel for the petitioner and the learned Government Advocate (Crl.Side), it is seen that the first respondent had initially availed term loan facilities for purchase of car. Subsequently, he availed mortgage loan, term loan and overdraft facilities in the names of his family members. Since, at that juncture, printed cheque leaves were not available in his name, he requested the banker to transfer the loan proceeds directly to his suppliers account, since he was engaged in construction activities and had purchased building materials from various parties. In fact, the first respondent had entered into an agreement with the petitioner herein and availed loans in his name and his family members. He also instructed the banker to transfer amounts from his loan account to the accounts of the petitioner and other suppliers. Accordingly, whatever the due amount payable by the first respondent was transferred to the petitioner's account as well as other suppliers account. While being so, there was misunderstanding between them and as such, the first respondent was evading to settle the dues.

8. Therefore, the petitioner was constrained to file a suit in O.S.No.220 of 2019 on the file of the Principal District Judge, Cuddalore, as against the first respondent and the same has now been transferred to the file of the Additional District Court, Virudhachalam, Cuddalore

District and it is pending for trial. That apart, the first respondent had issued several cheques to the persons who had supplied the construction materials and the same were dishonoured with the endorsement "funds insufficient". Therefore, the creditors initiated proceedings under Section 138 of the Negotiable Instruments Act against the first respondent and all the cases are pending. In order to escape from those proceedings, the first respondent suppressed the entire transactions and simply lodged the complaint as if the banker had transferred the loan amounts to the accounts of various third parties without his authorization.

9. A perusal of the records reveals that the first respondent had absolute knowledge about all the transactions and only with his authorization, the amounts were transferred to various third parties' accounts, who supplied the construction materials. In fact, after 2016, the first respondent borrowed several loans from the very same bank, which allegedly disbursed the loan amount to various third parties accounts. The Manager of the City Union Bank, Vilandai Branch, Andimadam, Ariyalur District has been arrayed as A1 and the petitioner has been arrayed as A2. There is absolutely no evidence to show that the petitioner had conspired with the first accused and disbursed the loan

amount to various third parties.

10. In fact, the petitioner and the first respondent are very close family friends and the petitioner was entrusted with the construction work by the first respondent. In fact, the transactions are also reflected in the income-tax returns submitted by the first respondent for the year 2016-2019. Therefore, the first respondent completely suppressed the fact that he borrowed loan amounts from the bank and that such amounts were disbursed to various persons from whom building materials were purchased. In fact, he also suppressed the fact that he entered into an agreement with the petitioner for supply of the building materials and construction of the building.

11. Admittedly, the first respondent availed loan facilities from the year 2016 to the tune of more than ten crores. The specific allegation of the first respondent is that a sum of Rs.1.28 crores had been disbursed to various third parties as early as of the year 2016. However, the complaint came to be lodged only in the year 2019. There is absolutely no reason for the inordinate delay in lodging the complaint and no prudent person would keep quite when the banker disbursed the loan

amount to the tune of 1.28 crores to various third parties in his name without authorization. Even after 2016, the first respondent continued to avail loan facilities from the very same bank. In fact, the wife of the first respondent challenged the closure report before this Court in W.P.No.22396 of 2023. This Court, relying upon the order passed by this Court in Crl.O.P.No.14609 of 2021 dated 30.08.2022, disposed of the writ petition with a direction to file a protest petition against the closure report filed by the third respondent. Aggrieved by the same, she preferred an appeal before the Supreme Court of India and the same was also dismissed in SLP No.9533 of 2022, by an order dated 10.11.2022. The Hon'ble Supreme Court of India also observed that the issues involved in the complaint are essentially of a civil nature dispute and that there is absolutely no material to constitute any offence as against the accused.

12. The learned counsel for the first respondent submitted that the Vigilance Audit Committee had conducted a Special Audit in Vilandai Branch and observed that the accounts were operated without obtaining cheques, through debit vouchers, and in certain cases even without the signatures of the borrower/authorized signatory, which is

against the prescribed guidelines. It is further observed that the borrower's signature/acknowledgment have not been obtained in the loan disbursement vouchers and that certain loan disbursements were made in stage by way of cash across the counter, which is against our systems and procedure. Therefore, the accused had misappropriated a huge amount and hence, the learned Magistrate rightly ordered further investigation.

13. A perusal of the records and the closure report dated 05.06.2021 reveals that even after the year 2016, on 11.01.2018, the first respondent availed a loan to the tune of Rs.60,00,000/-. Except for four transactions, which were marked in the complaint, the first respondent availed nine loans from the banker. That apart, there are records to show that from 20.12.2017 to 23.01.2018, there were business transactions between the petitioner and the first respondent and the amounts to the tune of Rs.52,36,495/- were transferred between their respective accounts. However, the first respondent has chosen to rely only one transaction, alleging that, in the particular disbursement, his signature was not found and that based on the signature of the petitioner, the loan was disbursed by the first accused. In fact, the said closure report was not

accepted and the Superintendent of Police, Ariyalur District, directed further investigation and submission of an additional report, if any.

14. Accordingly, the Deputy Superintendent of Police conducted a detailed investigation in Crime No.03 of 2019. After completion of the investigation, the Investigating Officer concluded that no prima facie case was made out to frame charges against the accused for any of the offence as alleged by the first respondent. Therefore, the learned Judicial Magistrate No.II, Jayankondam, ought not to have ordered for further investigation, since there is absolutely no material available to constitute any of the offences. All the allegations are civil in nature and if at all the first respondent is aggrieved by any transaction with regard to purchase of construction materials, he has to approach the civil Court for appropriate relief. In fact, the petitioner filed a civil suit as against the first respondent and it is pending for trial. Therefore, thus it is clear that in order to escape from the civil liability, the first respondent keep on knocking the doors of the Court without any substantive.

15. In view of the above, the order dated 06.06.2025 passed in Crl.M.P.No.146 of 2025 on the file of the Judicial Magistrate No.II,

Jayankondam, Ariyalur District, cannot be sustained and is liable to be set aside. Accordingly, it is hereby set aside and the Criminal Revision Case stands allowed. Consequently, connected miscellaneous petition is closed.

09.07.2025

Index : Yes/No
Internet : Yes/No
Speaking/Non Speaking order
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To

1. The Judicial Magistrate No.II,
Jayankondam, Ariyalur.

2. The Deputy Superintendent of Police,
District Crime Branch,
Ariyalur, Ariyalur District.

3. The Inspector of Police,
District Crime Branch,
Ariyalur, Ariyalur District

4.The Public Prosecutor,
High Court of Madras,
Chennai.

G.K.ILANTHIRAIYAN. J,

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