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CRL OP No. 23301 of 2022



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-09-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

**CRL OP No. 23301 of 2022
and CrI.MP.Nos.14882 and 14883 of 2022**

1. E.B.Purushothaman
2. Lalliyammal
- 3.T.K.Kasthuribai
4. Kamalabai
5. Sarojiniammal
- 6.T.K.Durgaprasad

Petitioner(s)

Vs

1. The Inspector of Police
Central Crime Branch,
15th Wing, Egmore, Chennai 600008.
- 2.S.Santiago
The Inspector Of Police, Railway
Protection Police, Perambur,
Chennai 600011.

Respondent(s)



PRAYER

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To call for the records of CC.No.52/2013 on the file of Special Metropolitan Magistrate, Special Court No.1 for the exclusively Trial of Land Grabbing Cases, (Egmore), Allikulam, Chennai 600003 and Quash the same as against the Petitioners herein.

For Petitioner(s): M/s.K.S.Shangaramurali

For Respondent(s): Mr.K.M.D.Muhilan, Additional
Public Prosecutor For R1
No appearance for R2

ORDER

This petition has been filed to quash the Final Report filed against the accused under Sections 467, 420 read with 511 and 120(b) of IPC.

2. The property of the railways have been encroached by one B.K.Rajendran and he has put up construction and thereafter he let out the premises to various other persons. Whereas the present petitioners, who claim to be the owner of the property, executed a power of attorney in favour of A7.



Therefore, they have been prosecuted for the offences under Sections 467, 420 read with 511 and 120(b) of IPC.

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3. On careful perusal of the final report and the statements collected by the Police, the investigation has been done only on the basis of some observations made in the earlier order of this Court passed in a Writ Petition. The fact remains that the petitioners claim ownership over the property from the year 1915. In the FIR itself it is stated that the property was purchased by the petitioners' ancestors.

4. Be that as it may, this Court is not venturing into all those disputes, but confine only with regard to the final report filed against the petitioners, which was taken on file in C.C.No.52 of 2013. The petitioners treating the property as their own property, executed a power of attorney in favour A7. However, they have been charge sheeted.

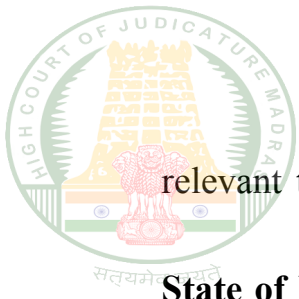
5. On careful perusal of the submissions and other aspects, this Court is of the view that even the entire submissions of the prosecution is taken for



consideration, no offence has been made out against the petitioners, for the following reasons:

The petitioners claim to be the owner of the property based on the sale deed in 1915. The FIR itself indicates that there was a sale deed in favour of the petitioners' ancestors. Now Railway took a stand that the property has been encroached by some encroachers. Subsequently, encroachers were removed and now possession has been taken by the Railways.

6. Even as per the version of the prosecution, the petitioners have not encroached the property and only B.K.Rajendran and others have encroached. The only charge against the petitioners is that they executed power of attorney in favour of A7. Mere execution of power of attorney by the petitioners in respect of the property, in which they sought to be in possession, will not amount to creation of false document. If any person believes that he is the owner of the property and executing power of attorney will not amount to creation of false records to attract the offence under Section 467 of IPC. It is



relevant to note that in the judgment in **Mohammed Ibrahim and other Vs.**

State of Bihar and another reported in [2009] 8 Supreme Court Cases 751

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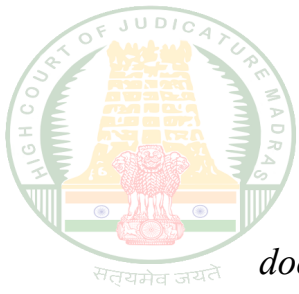
the Apex Court has held as follows :

“17. The allegations in the complaint do not also made out the ingredients of an offence under [section 504](#) of the Penal Code. [Section 504](#) refers to intentional insult with intent to provoke breach of peace. The allegation in the complainant is that when he enquired with accused 1 and 2 about the sale deeds, they asserted that they will obtain possession of land under the sale deeds and he can do whatever he wants. The statement attributed to appellants 1 and 2, it cannot be said to amount to an "insult with intent to provoke breach of peace". The statement attributed to accused, even if it was true, was merely a statement referring to the consequence of execution of the sale deeds by first appellant in favour of the second appellant.

Section 464 IPC deals with making of false and the same is extracted below :

"464. Making a false document.--A person is said to make a false document or false electronic record---

First.--Who dishonestly or fraudulently -



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(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any digital signature on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the digital signature, with the intention of causing it to be believed that such document or a part of document, electronic record or digital signature was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or Secondly.--Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with digital signature either by himself or by any other person, whether such person be living or dead at the time of such alternation; or Thirdly.--Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his digital signature on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practiced upon him, he does not



know the contents of the document or electronic record or the nature of the alteration.

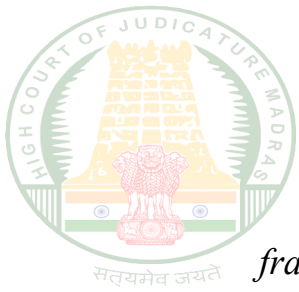
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[Note: The words 'digital signature' wherever it occurs were substituted by the words 'electronic signature' by [Amendment Act 10 of 2009](#)]."

The condition precedent for an offence under [sections 467](#) and [471](#) is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the question is whether the first accused, in executing and registering the two sale deeds purporting to sell a property (even if it is assumed that it did not belong to him), can be said to have made and executed false documents, in collusion with the other accused.

10. An analysis of [section 464](#) of Penal Code shows that it divides false documents into three categories:

10.1) The first is where a person dishonestly or fraudulently makes or executes a document with the intention of causing it to be believed that such document was made or executed by some other person, or by the authority of some other person, by whom or by whose authority he knows it was not made or executed.



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10.2) *The second is where a person dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part, without lawful authority, after it has been made or executed by either himself or any other person.*

10.3) *The third is where a person dishonestly or fraudulently causes any person to sign, execute or alter a document knowing that such person could not by reason of (a) unsoundness of mind; or (b) intoxication; or (c) deception practiced upon him, know the contents of the document or the nature of the alteration.*

11. *In short, a person is said to have made a 'false document', if (i) he made or executed a document claiming to be someone else or authorised by someone else; or (ii) he altered or tampered a document; or (iii) he obtained a document by practicing deception, or from a person not in control of his senses."*

7. In the above judgment, the Apex Court has held that the condition precedent for an offence under [section 467](#) is forgery. The condition precedent for forgery is making a false document (or false electronic record or part thereof). This case does not relate to any false electronic record. Therefore, the



offence under 467 of IPC is not made out. The petitioners were also not involved in any cheating or dishonestly induced the delivery of property, hence the offence under Section 420 IPC is also not made out. In such view of the matter, the entire complaint is liable to be quashed.

8. In view of the above, it is clear that based on some observations made in the earlier order of this Court passed in Writ Petition only, the criminal case has been filed and proceeded. Therefore, it is a fit to quash C.C.No.52 of 2013 pending on the file of Special Metropolitan Magistrate, Special Court No.1 for the exclusively Trial of Land Grabbing Cases, (Egmore), Allikulam, Chennai. Accordingly, this petitions is allowed and the proceedings in C.C.No.52 of 2013 is quashed. Consequently, connected miscellaneous petitions are closed.

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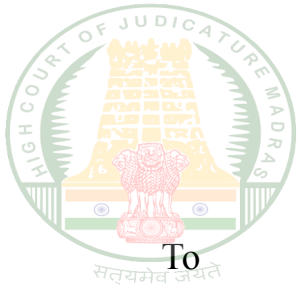
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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Egmore, Chennai 600008.

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Railway Protection Police, Perambur,
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