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Crl.R.C.No.1607 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2025

CORAM:

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

Crl.R.C.No.1607 of 2024

Suresh Kannan

... Petitioner

Vs

State Represented by
The Inspector of Police,
J5, Sastri Nagar Police Station,
Chennai.

Cr.No.1553 of 2017

... Respondent

PRAYER: Criminal Revision Case is filed under Section 438 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crl.M.P.No.1046 of 2018, dated 28.03.2024 on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai and allow the revision and thereby set-aside the order in Crl.M.P.No.1046 of 2018, dated 28.03.2024 on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai.

For Petitioner	: Mr.R.Ganesh Kumar
For Respondent	: Mr.A.Gopinath
	Government Advocate (Crl.side)



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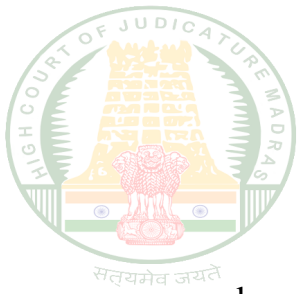
ORDER

This Criminal Revision has been filed challenging the order in Crl.M.P.No.1046 of 2018, dated 28.03.2024 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai, thereby dismissing the protest petition.

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

3. The petitioner lodged a complaint and the same was registered in Crime No.1553 of 2017 for the offences punishable under Sections 406 and 420 of IPC. After completion of investigation, final report was filed, thereby closing the FIR as “Mistake of Fact”. Aggrieved by the same, the petitioner filed a protest petition in Crl.M.P.No.1046 of 2018 and the same was dismissed by the Trial Court and accepted the closure report. Hence, this revision.

4. The learned counsel for the petitioner would submit that

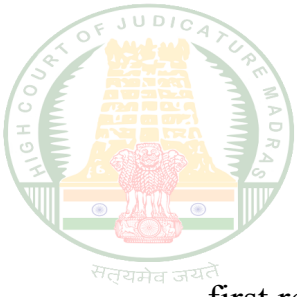


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when the petitioner was in abroad, he had sent a sum of Rs.25,80,000/- to the accused, in order to purchase an immovable property. It was transferred to the account of the accused from the month of April 2012 to August 2013. However, the respondent closed the FIR, on the ground that two immovable properties were already purchased in the name of the petitioner's mother and sister. Therefore, the said amount was adjusted towards the purchase of the said properties. It was also accepted by the Trial Court.

5. The learned Government Advocate (Crl.side) appearing for the respondent Police submitted that after recording the statements from the witnesses, it revealed that the money sent by the petitioner was duly received by the accused and purchased properties in favour of the petitioner's mother and sister. That apart, another complaint was also lodged by the respondent against the petitioner's mother. One of the accused also filed a suit against the petitioner's mother and it is pending in O.S.No.728 of 2017 on the file of the Principal City Civil Judge, Chennai. Therefore, no charge is made out against the accused and the

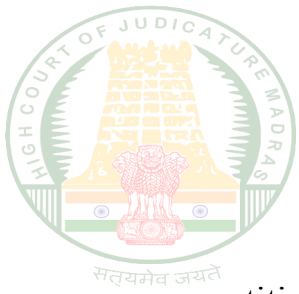


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first respondent had rightly closed the complaint as “Mistake of Fact”.

6. A perusal of records revealed that admittedly, the petitioner had transferred a sum of Rs.25,80,000/- to the credit of the accused from the month of April 2012 to August 2013. But the immovable properties were purchased in the name of the petitioner's mother and sister by the accused on 19.11.2012. The petitioner had also produced the statement of accounts of his father. It revealed that the sale consideration was transferred to the accused from the account of the petitioner's father to purchase the property in favour of the petitioner's mother and sister. However, no property was purchased from the money received from the petitioner during the month of April 2012 to August 2013.

7. In fact, after receipt of money, one of the accused had sent an e-mail dated 11.01.2013 stating that he would transfer money to Madurai for registration of pending land with advance. It shows that the accused undertakes to register the property in favour of the petitioner for the money received by him. Therefore, the transaction between the



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petitioner and the accused was completely different from the transaction between the petitioner's mother and sister with the accused. Without considering the same, the respondent also closed the FIR as “Mistake of Fact” and it was accepted by the Trial Court.

8. In view of the above, the order passed by the Court below cannot be sustained and is liable to be set aside. Accordingly, the order in Crl.M.P.No.1046 of 2018, dated 28.03.2024 on the file of the Learned IX Metropolitan Magistrate, Saidapet, Chennai, is hereby set aside.

9. The matter is remanded back to the Trial Court for recording sworn statement of the petitioner and other supportive witnesses and if any cognizable offence is made out, the Trial Court is directed to take cognizance against the accused and proceed with the Trial in accordance with law. It is made clear that the petitioner and the supportive witnesses are at liberty to give evidence before the Trial Court along with supportive materials.



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10. Accordingly, this Criminal Revision Case is allowed.

26.08.2025

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

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
J5, Sastri Nagar Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J.

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