



Crl.O.P.No.21060 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2025

CORAM:

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

Crl.O.P.No. 21060 of 2023

and

Crl.M.P.Nos.14452 & 14454 of 2023

Elangovan

.... Petitioner

Vs

1. State rep by
The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai – 600 040.
Crime No.82 of 2021

2. Rajendira Kishore

.... Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure, to call for the records relating to the C.C.No.4581 of 2023 on the file of the learned Metropolitan Magistrate Court No.V, Egmore, Chennai and quash the same by allowing this Criminal Original Petition.

For Petitioners	:	Mr.M.Mohamed Riyaz
For R1	:	Mr.R.Vinothraja
		Government Advocate
For R2	:	No appearance



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ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings in C.C.No.4581 of 2023 pending on the file of the Metropolitan Magistrate Court No.V, Egmore, Chennai.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent. Perused the materials available on record.

3. The case of the prosecution is that the second respondent, who is the Director of M/s.ISCISTECH Business Solutions Pvt Ltd., entered into a lease agreement on 20.11.2018 with one Sharadhamani Kandappan for a commercial premises located at Anna Nagar East, Chennai, on a monthly rent of Rs.1,25,000/- and paid a sum of Rs.12,50,000/- as security deposit. The second respondent vacated the premises, after issuing three months prior notice, on 19.07.2019. Subsequently, the said Sharadhamani died on 11.10.2019. Thereafter, the petitioner undertook to refund the security deposit but failed to do so. Hence, the complaint.



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4. After completion of the investigation, the first respondent

filed a final report and the same has been taken cognizance in C.C.no.4581 of 2023. Even according to the case of the prosecution, the second respondent was inducted as a tenant by the petitioner's mother-in-law on 20.11.2018 for a period of eleven months in respect of the property owned by the petitioner's mother-in-law situated at GRD Towers, 2nd Floor, AA154/1, 3rd Avenue, Anna Nagar, Chennai and entered into an agreement. As per the agreement, the petitioner's mother-in-law received a sum of Rs.12,50,000/- as security deposit. Thereafter, the second respondent vacated the premises on 19.07.2019. The petitioner's mother-in-law died on 11.10.2019, i.e., after the second respondent was vacated the premises. The allegation is that the petitioner failed to return the security deposit, which was received by his mother-in-law. For this allegation, the petitioner is facing trial for the offence under Section 406 and 420 of IPC.

5. It is well settled that in order to bring the charge for the offence under Section 420 of IPC:

(i) the accused must fraudulently or dishonestly made some false compromise.



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(ii) the defacto complainant must act on the strength of such

WEB COM false representation or compromise.

6. In the case on hand, the petitioner neither made any dishonest nor any fraudulent representation to the second respondent. Therefore, the offence under Section 420 of IPC is not at all made out as against the petitioners.

7. 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 [(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 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



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WEB COPY settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

8. In the case of ***G.Sagar Suri Vs. State of Uttar Pradesh*** [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 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.”

9. In view of the above, the proceeding in C.C.No.4581 of 2023 pending on the file of the Metropolitan Magistrate Court No.V, Egmore, cannot be sustained and is liable to be quashed. Accordingly,



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the said proceedings in C.C.No.4581 of 2023 is hereby quashed and this

WEB CO Criminal Original Petition stands allowed. Consequently, connected
miscellaneous petitions are closed.

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

1. The Metropolitan Magistrate Court No.V,
Egmore, Chennai.

2. The Inspector of Police,
K-4, Anna Nagar Police Station,
Chennai – 600 040.

3. The Public Prosecutor,
High Court, Madras.

G.K.ILANTHIRAIYAN, J.



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