IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22539 of 2025

P.R.Senthamarai

Petitioner(s)

Vs

1. State by, Inspector of Police,
Central Crime Branch,
Salem City.Cr.No.32/2024.

2.C.R.Dharmalingam
S/o.C.D.Ramalingam,
Managing Trustee Arulmigu Anjaneya
Swamy Temple, No.24/2,
Kaliamman Koil Street, Reddipatti,
Salem-636 302.

Respondent(s)

PRAYER

This Criminal Orginal Petititon has been filed under Section 528 of BNSS to call for the records of the First Information Report in Crime No.32 of 2024 on the file of the Inspector of Police, Central Crime Branch, Salem City and quash the same as against the petitioner .

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For petitioner Mr. A. Nagarajan

For Respondent: Mr. R.Vinothraja,
Gov. Advocate (crl.side)

ORDER

Challenge has been made to the First Information Report filed against the petitioner, who was the Sub Registrar, for the alleged offences under Sections 468,471, 420, 120B of IPC and Section 82(D) of the Registration Act.

2. The complaint has been given by the defacto complainant on the ground that the property belong to a Trust and that they have rights over the said property. It is stated that C.R.Jayachandran claims independent right over the property, and therefore, a suit in O.S.No.446 of 2023 was filed before the IV Additional District Munsif Court, Salem, seeking permanent injunction restraining the said C.R.Jayachadran from interfering with the peaceful possession and enjoyment of the property and also restraining him from in any

manner transferring the patta and property tax to the defendants 2 and 3 in the said suit, namely Commissioner, Tahsildhar and Sub Registrar. Relief was also sought therein for not registering the document.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) appearing for the first respondent and perused the materials available on records carefully.

4. Entire issue revolve around the Will, said to have been executed in his favour, the document has been presented by C.R.Jayachandran. It appears that no interim order has been passed restraining any of the officers from registering the document.

5. The present petitioner, being the Sub-Registrar, has registered the document and therefore, he has also been arrayed as an accused for the offence under Section 418 IPC.

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6. It is relevant to note that this Court in the case of Subramani /Vs/ The Sub Registrar and another in WP No.1156 of 2024 dated 26.04.2024 elaborately dealt with the powers of the Sub Registrar with regard to registering of the document. Based on the said judgment, a circular was also issued by the respondent Inspector General of Registration in Circular No/22482/C1/2022, dated 12.07.2024., wherein also the Standing Order No.238 of Tamil Nadu Registration Manual-Part II, which was communicated vide circular No.55580/C1/2004 dated 09.03.2005, is once again reiterated. In the said Standing Order, it has been categorically stipulated that only in the instance where the registering officer is impleaded as a respondent/defendant, and restrained by any Court not to register any document in respect of certain property, then only he should not register the document.

7. The allegation against the petitioner is that he registered the disputed document. It is not in dispute that the said act was done in the course of discharging his official duty. The charge against him is under Sections 468, 471, 420, 120(b), IPC and 82(d) of the Registration Act.

8. To constitute the offence of forgery, the primary ingredient is the making of false documents. In this regard, it is relevant to extract the judgment of the Hon'ble Supreme Court in ***Mohamed Ibrahim and others /vs/ State of Bihar & Anr. 2009(8) SCC 751,*** wherein at paragraphs 10 to 14 it has been held that mere registration of a document in discharge of official duty will not, by itself, constitute an offence of forgery or cheating. The relevant portion of the said Judgments are extracted hereunder :-

> *"...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.*
>
> *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 practised 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.

12. The sale deeds executed by first appellant, clearly and obviously do not fall under the second and third categories of `false documents'. It therefore remains to be seen whether the claim of the complainant that the execution of sale deeds by the first accused, who was in no way connected with the land, amounted to committing forgery of the documents with the intention of taking possession of complainant's land (and that accused 2 to 5 as the purchaser, witness, scribe and stamp vendor colluded with first accused in execution and registration of the said sale deeds) would bring the case *under the first category. There is a fundamental difference between a person executing a sale deed claiming that the property conveyed is his property, and a person executing a sale deed by impersonating the owner or falsely claiming to be authorised or empowered by the owner, to execute the deed on owner's behalf. When a person executes a document conveying a property describing it as his, there are two possibilities. The first is that he bonafide believes that the property actually belongs to him. The second is that he may be dishonestly or fraudulently claiming it to be his even though he knows that it is not his property. But to fall under first category of `false documents', it is not sufficient that a document has been made or executed dishonestly or fraudulently. There is a further requirement that it should have been made with the intention of causing it to be believed that such document was made or executed by, or by the authority of a person, by whom or by whose authority he knows that it was not made or executed. When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as* *defined under section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither section 467 nor section 471 of the Code are attracted.*

Section 420 IPC

13. Let us now examine whether the ingredients of an offence of cheating are made out. The essential ingredients of the offence of "cheating" are as follows: (i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission; (ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property. To constitute an offence under section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived (i) to deliver any property to any person, or

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(ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

14. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth *and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner. As the ingredients of cheating as stated in section 415 are not found, it cannot be said that there was an offence punishable under sections 417, 418, 419 or 420 of the Code."*

9. In the present case, there is no material to show that the petitioner was hand in glove with the other accused. Even to maintain the offence under Section 82(d) of the Registration Act, there must be a specific allegation of participation or conspiracy. But, in the present case on hand, there is no specific allegation as against the petitioner.

10. Therefore, merely because the petitioner had registered the document in discharge of his official duty, he cannot be roped in along with the other accused.

11. Accordingly, this Criminal Original Petition is allowed. The FIR in Crime No.32 of 2024 registered as against the petitioner/sub registrar alone is hereby quashed. The investigation, however, shall continue as against the other accused in respect of the alleged forgery.

14-08-2025

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

mrp

To

The Inspector of Police,
Central Crime Branch, Salem
City.Cr.No.32/2024.

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N.SATHISH KUMAR J.

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