



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2025

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CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 23056 of 2025

Syed Namath
S/o.Syed Kaleemullah,
109, Kodambakkam High Road,
Nungambakkam, Chennai - 600 034.

Petitioner(s)

Vs

1. State rep.by
The Inspector of Police, Central Crime
Branch, St.Thomas Mount, Chennai.

2.M.M.Fahim
S/o.Nazarullah, No.48,
State Bank Colony, Main Nanganallur,
Chennai.

Respondent(s)

PRAYER

This Criminal Original Petition has been filed under Section 528 of BNSS to call for the records and quash the C.C.No.164 of 2012 is pending before the Judicial Magistrate No.I, Alandur.



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For Petitioner(s): Mr. C.Umashankar

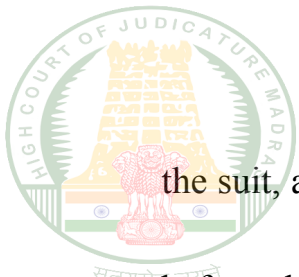
For Respondent(s): Mr. K.M.D.Muhilan,
Additional Public Prosecutor
for R1

ORDER

To quash the CC No.164 of 2012 pending on the file of the Judicial Magistrate No.I, Alandur, the present petition has been filed.

2. The petitioner, who is the sole accused, is facing trial in CC No.164 of 2012 for the offences under Sections 406 and 420 IPC alleging that the petitioner has not honoured the agreement of sale entered between the parties.

3. The learned counsel appearing for the petitioner would submit that based on the agreement of sale, a suit for specific performance was also filed in CS No.87 of 2009 before this Court and the same has been transferred to the City Civil Court and renumbered as OS.No.8447 of 2010. The learned IV Additional Sessions Judge, in judgment and decreed dated 31.10.2018, decreed

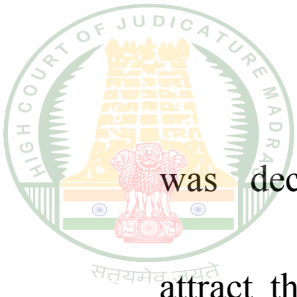


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the suit, against which, the petitioner had filed an appeal in A.S.No.221 of 2019 before this Court. This Court, by an order dated 04.10.2023, set aside the judgment passed by the Trial Court and dismissed the suit in respect of specific performance and directed the petitioner herein to refund the amount of Rs.10 lakh with interest, which has reached finality upto the Hon'ble Supreme Court.

4. According to the prosecution, the defacto complainant and the accused entered into an agreement for sale dated 23.09.2005 and the accused received a sum of Rs.10 lakhs as advance. It was agreed between the parties that the sale has to complete within a period of three months. As there is a breach of contract and the sale has not been completed, the criminal complaint has been lodged. Based on the complaint, the respondent police registered a case and filed a final report under Sections 406 and 420 of IPC.

5. Be that as it may, the very allegation in the final report indicates that it is nothing , but clear case of abuse of process of law. Mere breach of contract will not amount to cheating. Absolutely, there is no material to show that there



was deception played by the petitioner from the very inception to attract the offence under Section 420 of IPC . Further, 406 IPC is also not attracted, as it is a clear breach of contract between the parties, in respect of which, a civil suit is already filed and now it appears that the amount is also paid. Considering the facts, final report is nothing but clear abuse of process of law.

6. In such view of the matter, this Criminal Original Petition stands allowed and the case against the petitioner in C.C.No.164 of 2012 on the file of the Judicial Magistrate NO.I, Alandur stands quashed.

03-09-2025

Neutral Citation: Yes/No
mrp

To

The Inspector of Police, Central Crime
Branch, St.Thomas Mount, Chennai.



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N.SATHISH KUMAR J.

mrp

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