



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-09-2025

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THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 24395 of 2025

L.Lakshmanan
S/o.Lakshmanan,
No.1/1, Vlayaragavachariar Road,
Salem- 7.

Petitioner(s)

Vs

1. K.Jagadheesan
S/o.Kaveri,
Karattur, Ka. Vadukapatty,
Konganapuram, Edappady TK,
Salem District.

2.State of Tamil Nadu,
Rep. By The Inspector of police,
Hasthampatti Police Station,
Hasthampatti, Salem-7.

Respondent(s)

**PRAYER**

This Criminal Original Petition has been filed under Section 528 of BNSS to set aside the fair order dated 21.06.2025 passed in Crl.R.Pet.No.34 of 2024 on the file of Hon'ble 1st Additional District and Sessions Judge, Salem, confirming the fair order dated 12.07.2024 in Crl.M.P.No.2936 of 2024 on the file of Hon'ble Judicial Magistrate III, Salem as illegal and direct the respondent police to register the FIR against the respondent for criminal breach of trust, wrongful loss and cheating.

For Petitioner(s): Dr. A.Thiyagarajan, S.C.,
for
Mr. S.Ramesh Kumar

For Respondent: Mr. R.Vinothraja,
Government Advocate (crl.side)
for R2

ORDER

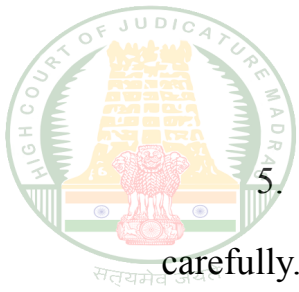
Challenge has been made to the dismissal order of the Revisional Court confirming the order of the Trial court, dismissing the private complaint.

2. The petitioner, a practising lawyer, filed an application under Section 156(3) of the Cr.P.C., seeking registration of a criminal case against the first respondent.



3. The crux of the allegation is that the first respondent has induced the petitioner to pay a sum of Rs.6 lakhs for purchase of a camera and other equipment required for cinema shooting. It was further agreed between the parties that for shooting the entire movie, a sum of Rs.24 lakhs would be spent and the shooting completed within four months. However, due to differences in script and actors, the shooting was not completed and the amount received was not returned to the petitioner. The agreement, though signed by the respondent, was not signed by the petitioner. According to the petitioner, it is a clear case of cheating and therefore, he lodged a private complaint under section 156(3) Cr.P.C.

4. The learned Magistrate treated it as a private complaint and examined the petitioner. On the basis of his oral evidence, the Trial Court had concluded that no offence as alleged by the petitioner had been made out and dismissed the complaint. The revision petition filed by the petitioner before the appellate court has also been dismissed, confirming the order passed by the Trial Judge. Hence, the present petition has been filed.

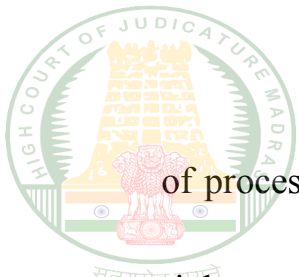


5. Heard both sides and perused the materials available on records carefully.

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6. Admittedly, on revision, the Revisional Court also confirmed the dismissal of the Trial Court. Once the revisional jurisdiction has already been availed and suffered an order, entertaining a fresh petition under Section 528 of BNSS would amount to an abuse of process of law.

7. As far as the maintainability of an application under Section 482 Cr.P.C./Section 528 BNSS as against the order passed by the revision Court, is concerned, the law is well settled in this regard. This Court, in *Geetha Devi v. D.I.Nathan* reported in (2015) *Crl.L.J.* 2482, has held that provision petition under Section 482 Cr.P.C./528 BNSS can be invoked only when there is any abuse of process of Court or the interests of justice call for such exercise. Therefore, it is clear that, though an application under Section 482 Cr.P.C. is not barred, but it is maintainable in exceptional cases, only when there is abuse of process of law or the interests of justice call for such exercise as against the revision Court order. In the absence of any evidence to show that there is abuse



of process of Court or interests of justice, call for such exercise, as a matter of

right, a petition Section 482 Cr.P.C./Section 528 BNSS cannot be entertained as

against the revision Court order.

8. The very application before the trial Court is only for discharge of the accused. While considering the plea of discharge, the Trial Court has to normally consider the materials collected by the Investigation Officer. At that stage, the Trial Court has to see only whether a *prima facie* case is made out or not. The issue as to whether the offences are proved beyond reasonable doubt, is not at the helm of discussion by the Trial Court at the stage of deciding a discharge application. Even on a mere suspicion to entertain a charge against the accused, the Trial Court can dismiss the application for discharge. The probative value of the materials on record cannot be gone into by the Trial Court, while entertaining an application for discharge. In order to discharge an accused, the Court has to satisfy itself that the materials collected against the accused are frivolous and there are no materials against the accused for proceeding against him by framing the charges. Therefore, at that stage, the



veracity and the probative value of the statements recorded from the witnesses,

cannot be gone into by the trial Court. Whether or not, the offence is made out

beyond the reasonable doubt, is also beyond the scope of the learned Magistrate

or the Court while exercising its power of discharge.

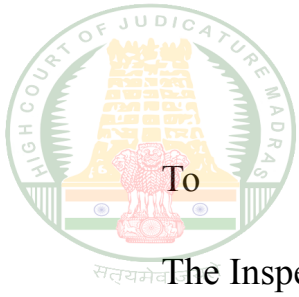
9. In the light of the above well settled principles, now, this Court will examine the case on hand. A careful examination of the private complaint and the evidence of the parties, makes it very clear that the matter amounts to a breach of contract between the parties, and lacks the essential ingredients of any criminal offence. No case of cheating or other cognizable offence is made out.

10. In view of above, this Criminal Original Petition is dismissed. The petitioner is at liberty to work out his remedy, if so advised, to file an appropriate civil suit for recovery of the amount.

08-09-2025

Neutral Citation: Yes/No

mrp



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To

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The Inspector of police,
Hasthampatti Police Station,
Hasthampatti, Salem-7.



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N.SATHISH KUMAR J.

mrp

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