



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 24-10-2025**

CORAM

**THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI**

**CRL RC No. 2067 of 2025**

PUNITHAVATHI

D/o.Thangavelu,  
D.No.36, OM Ganesh Road, Linganoor,  
Veerakeralam, Coimbatore-641 041

Petitioner(s)

Vs

1. David Clement

S/o.Not Known, 4/3, Surya Garden,  
East Barathi Colony Peelamedu,  
Coimbatore-641 041

2.S.M.Samy

S/o.Marudhachalam, 95-A, Asthandirar  
West Street, Singanallur Post,  
Coimbatore-641 005

3.J.Babu

S/o.John David, 309, Nethajipuram,  
Neelikonampalayam Post, Coimbatore-  
641 033



4.Arunai Motors Finance

Rep by its Proprietary, 306,B/1, 3rd

Floor, MG Road, Barathi Nagar, Karur-  
639002

5.State rep by the Commissiner of  
Police

City Crime Branch Police Station,  
Coimbatore

Respondent(s)

**PRAYER**

To allow the above Criminal RC by setting aside the order dated 30.07.2025 made in CMP.No.34745 of 2024 on the file of the Judicial Magistarte No.VII Coimbatore

For Petitioner(s): Mr. M. Marudhachalam

**ORDER**

Challenging the impugned order dated 30.07.2025 passed by the Judicial Magistrate No.VII, Coimbatore in C.M.P.No.34745 of 2024, the petitioner/complainant preferred this Criminal Revision Petition.

2. As per contentions of the petitioner, she is wife of one Arun K.Palanisamy. Due to family dispute, they were separated and at the time of settlement, an extent of 2 acres 17 cents was given to her as a settlement of maintenance on 30.12.2015. Thereafter, the respondents 1 to 3 have approached



her and promised to sell the property for a fancy sale consideration. Since she is a separated woman, to maintain herself, she inclined to sell the property.

Accordingly, the property was sold to one Sivaprakash, who is power agent of one S.Martin through a sale deed dated 12.01.2016 for a valid consideration of Rs.6,55,38,000/- after deduction of TDS was paid by way of demand draft in the presence of respondents 1 to 3. Taking advantage of the fact that she is a single woman, the respondents/accused have brainwashed her, having income tax problem, they have insisted her to deposit the amount in the 4<sup>th</sup> respondent finance for the fancy interest. Accordingly, she transferred part of sale consideration of Rs.2,15,00,000/- through RTGS to the 1<sup>st</sup> respondent, she had paid a sum of Rs.26,00,000/- by way of demand draft to the 2<sup>nd</sup> respondent and she had paid a sum of Rs.29,00,000/- by way of demand draft to the 3<sup>rd</sup> respondent. Thereafter, they have also promised to purchase another land and taken her to 4<sup>th</sup> respondent finance, wherein through RTGS, she transferred a sum of Rs.92,00,000/- to his account. So, as on date, entire sale consideration was transferred to the account of respondents 1 to 4. But, no property was purchased nor any amount was repaid, thereby with an ill-motive entire sale consideration was cheated by the respondents 1 to 4. Therefore, immediately she gave a complaint to the police authority in the year 2018 itself. As a single woman, she was dragged from pillar to post, but the police authority refused to take action stating that all were influenced persons in the locality. Hence, she filed a private complaint before the trial court. The learned Magistrate also



without considering the facts and circumstances, by docket order dismissed the petition holding that the complaint was lodged nearly about two years later from the previous complaint. Aggrieved over the said findings, the petitioner/complainant preferred this Criminal Revision Case.

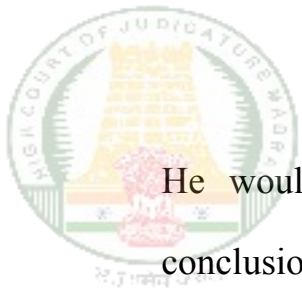
3. The learned counsel for petitioner would submit that the court below erroneously dismissed the petition without considering the entire facts and circumstances, besides prima facie materials also produced before the trial court about the alleged cheating committed by the respondents, but the same was failed to take into consideration. Further, he would submit that the court below failed to appreciate that at the stage of ordering of investigation under Sec.175(3) BNSS the detailed evaluation of evidence is not required and only a prima facie case needs to be made out. The petitioner has clearly averred facts disclosing commission of cognizable offences, which warranted direction for investigation. He would submit that the court below misapplied the principles laid down by the Supreme Court and various High Courts, which have held that in cases involving serious allegations of cheating, breach of trust and conspiracy, investigation should not be stifled at the threshold merely on the ground of delay, especially when the complaint discloses a continuing offence.

4. The learned counsel for petitioner would also submit that the court below committed a jurisdictional error in prematurely analysing the merits of



the complaint, which is impermissible at the pre-investigation stage. The function of the court below at this stage is to assess whether the complaint discloses commission of a cognizable offence, not to conduct a trial. He would submit that the court below failed to consider that the petitioner has no alternative efficacious remedy except to seek criminal prosecution, since the acts alleged are not merely civil disputes, but attract the criminal liability under Sec.406, 420, 120B I.P.C. as made out from the averments and documents annexed.

5. The learned counsel for petitioner would submit that the order of the court below is violative of the principles of natural justice, as it summarily dismissed the complaint without granting adequate opportunity to the petitioner to be heard or to present clarifications on the delay and the continuing nature of the offence. He would also submit that the impugned order of the court below is manifestly arbitrary, legally untenable and against the settled principles governing the exercise of power under Sec.175(3) BNSS and therefore warrants interference. He would further submit that the court below has erroneously overlooked that the cheating was committed on February 2018 and considered that there is 1 ½ years delay. In any event, the said conclusion warrants interference and ordering for investigation, since the allegation of cheating is not based on single act, but as a result of series of continuing acts and therefore, the complaint was preferred when the acts of the accused resulted in suspicion.



He would further submit that the court below erroneously come to the conclusion that the complaint inspires suspicion on the part of the petitioner citing delay and the same is liable to be set aside for the reason that the accused have continued their criminal acts since 2018 and the petitioner continuously preferred complaints in regular intervals and there cannot be any motive on part of the petitioner and as such the interpretation of suspicion by the court is absolutely wrong. Hence, he prayed to set aside the findings of trial court.

6. Heard and considered rival submissions made by learned counsel for petitioner perused materials available on record.

7. Considering his submissions and on perusal of records, the fact reveals that the petitioner is a single woman, she was cheated by the respondents 1 to 4 by taking away all her sale consideration from her account with a false promise to purchase another land and also insisted her to invest in 4<sup>th</sup> respondent finance company, thereby all the amounts were transferred. The petitioner had also produced prima facie materials to show the amounts transferred through RTGS to the account of respondents 1 to 4. When there is prima facie materials, the trial court ought to have taken the case on file, but erroneously dismissed the petition as such it needs interference of this court. Therefore, the findings rendered by the Judicial Magistrate No.VII, Coimbatore in C.M.P.No. 34745 of 2024 is set aside. The Inspector of Police, City Crime Branch Police Station,



Coimbatore is directed to register the F.I.R. against the respondents 1 to 4, conduct investigation and submit a report within a period of twelve weeks from the date of receipt of a copy of this order as per manner known to law.

Accordingly, this Criminal Revision Case is disposed of.

**24-10-2025**

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

Judicial Magistrate No.VII, Coimbatore.



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**T.V.THAMILSELVI J.**

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