



Crl.OP(MD)No.4515 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.4515 of 2024

and

Crl.M.P.(MD)No.3547 of 2024

1.Anwar Ali

2.Mohammed Muneef

3.Mohammed Thowfeek

4.Shahul Hameed

5.Mehar Banu

... Petitioners

Vs.

1.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
(Cr.No.34 of 2024)

2.Ratheesh

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in crime No.34 of 2024 on the file of the 1st respondent police and quash the same.

For Petitioner : Mr.P.Narayana Kumar

For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)



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For R-2

: Mr.S.Sivakumar

ORDER

This Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, seeking to call for the records relating to Crime No.34 of 2024 dated 21.02.2024 on the file of the first respondent police and to quash the same as against the petitioners.

Preface:

2. The inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure is intended to prevent abuse of the process of law and to secure the ends of justice. Though the power is extraordinary and is to be exercised sparingly, this Court is duty bound to interfere where criminal proceedings are manifestly attended with mala fide, where the dispute is purely civil in nature, or where the essential ingredients of the alleged offences are conspicuously absent on the face of the First Information Report.

3. The present case presents yet another instance where a civil dispute arising out of a loan transaction is sought to be converted



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into a criminal prosecution by implicating not only the principal borrower but also his entire family, thereby subjecting them to unnecessary criminal harassment.

Case of the prosecution:

4. The case of the prosecution, as borne out from the First Information Report in Crime No.34 of 2024, is that the *de facto* complainant and the first accused were known to each other. It is alleged that on 20.09.2020, Accused Nos.1 to 3 approached the *de facto* complainant and availed a loan of Rs.7,00,000/- (Rupees Seven Lakhs only) for business purposes by executing a promissory note, with an assurance to repay the same within six months.

5. It is further alleged that Accused Nos.4 and 5 had signed the promissory note as witnesses. According to the prosecution, despite repeated demands, the amount was not repaid. A police complaint was stated to have been given, pursuant to which an undertaking was allegedly given by the accused to repay the amount on or before 04.11.2022.



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6. It is the further allegation that the accused failed to honour the undertaking and, upon subsequent demands, they allegedly threatened the *de facto* complainant with dire consequences. Since no action was allegedly taken by the police, the *de facto* complainant approached the learned Judicial Magistrate, Eraniel, by filing a petition under Section 156(3) Cr.P.C., 1973, based on which the impugned FIR came to be registered for the offences under Sections 147, 120(B), 420, 294(b) and 506(i) of the Indian Penal Code.

Case of the petitioners:

7. The petitioners contend that the entire prosecution is an abuse of process of law. According to them, there was indeed a loan transaction between the first petitioner and the *de facto* complainant, which was duly repaid in full. It is submitted that after repayment of the principal amount, the *de facto* complainant demanded exorbitant and unlawful interest and, upon refusal, began harassing the entire family. The second and third petitioners are the sons of the first petitioner; the fourth petitioner is his brother; and the fifth petitioner is his wife. Except for the first petitioner, none of the other petitioners had any role in the alleged loan transaction. It is



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specifically contended that the petitioners have been arrayed as accused only to exert pressure and to convert the police machinery into a recovery forum, which is impermissible in law.

Grounds for quash:

8. The petitioners have raised several grounds seeking quashment of the FIR, *inter alia*, contending that the dispute is purely civil in nature arising out of a loan transaction. Criminal law has been invoked only to pressurize the petitioners. The FIR does not disclose the essential ingredients of any of the alleged offences. Vague and omnibus allegations have been made against family members without any specific overt act. Signing a promissory note as a witness does not attract criminal liability. The ingredients of Sections 147, 120(B), 420, 294(b) and 506(i) IPC are not made out even *prima facie*.

Submissions:

9. The learned counsel for the petitioners submitted that the FIR itself demonstrates that the transaction was a loan transaction governed by civil law remedies. It was contended that mere failure to



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repay a loan does not constitute cheating unless there was dishonest intention at the inception, which is completely absent in the present case. The learned counsel further submitted that the inclusion of the entire family amounts to misuse of criminal proceedings, especially when no unlawful assembly, conspiracy or intimidation is made out on the face of the FIR.

10. The learned Government Advocate (Crl. side) appearing for the first respondent police submitted that the FIR was registered pursuant to the order passed by the learned Judicial Magistrate under Section 156(3) Cr.P.C., 1973, and that investigation is at a nascent stage.

11. The learned counsel for the second respondent would submit that the accused had borrowed money, failed to repay the same and had threatened the *de facto* complainant, thereby attracting the penal provisions invoked in the FIR.

12. Heard the learned counsels on either side and carefully perused the materials available on record.



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13. Point for consideration:

The point that arises for consideration is whether the continuation of the criminal proceedings in Crime No.34 of 2024 would amount to abuse of the process of law and whether the FIR is liable to be quashed in exercise of the inherent powers of this Court under Section 482 Cr.P.C., 1973?

Analysis:

14. It is well settled that to attract the offence of cheating under Section 420 IPC, the dishonest intention must exist at the inception of the transaction. A mere failure to keep a promise or to repay a loan would not, by itself, constitute cheating. A reading of the FIR unmistakably reveals that the transaction was a loan transaction supported by a promissory note. The dispute essentially pertains to repayment of money, for which the remedy lies before the competent Civil Court.

15. As regards the offence under Section 147 IPC, there are absolutely no averments to show the existence of an unlawful assembly as defined under Section 141 IPC, nor is there any



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allegation of use of force or violence. The allegation of conspiracy under Section 120(B) IPC is wholly bald and unsupported by any material particulars. A mere assertion of conspiracy without specifying the agreement or the illegal act is insufficient to sustain the charge.

16. To attract Section 294(b) IPC, the alleged obscene words must have been uttered in a public place causing annoyance to others. The FIR is conspicuously silent on these mandatory ingredients. Similarly, mere allegations of threat without any imminent danger or actual harm would not attract Section 506(i) IPC. Significantly, except the first petitioner, the other petitioners are family members who have been roped in without any specific role. Such omnibus implication of family members has been repeatedly deprecated by the Courts. This Court cannot permit criminal proceedings to be used as a coercive tool for recovery of money or to settle civil disputes.

17. The Hon'ble Supreme Court has consistently held that criminal law should not be set in motion as a matter of course for



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settling civil disputes. Allowing such prosecutions to continue would result in grave miscarriage of justice. In the present case, the allegations, even if taken at face value, do not constitute the offences alleged. The continuation of the proceedings would amount to abuse of process of law.

18. In the result, this Criminal Original Petition is allowed. The First Information Report in Crime No.34 of 2024 dated 21.02.2024 on the file of the first respondent police is quashed as against all the petitioners. Consequently, the connected miscellaneous petition is closed.

15.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Inspector of Police,
Colachel Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Sml

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