



Crl.R.C.(MD)No.530 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 03.09.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.530 of 2025

and

Crl.M.P(MD)No.5638 of 2025

1.Velmayil
2.Ramalingam

... Petitioners/Petitioners/
Accused Nos.1&2

Vs.

1.The State of Tamil Nadu,
The Inspector of Police,
District Crime Branch II,
ALGSC, Thoothukudi.
(Crime No.45/2015)

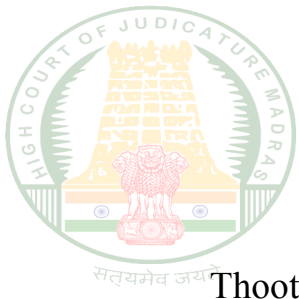
... Respondent/Respondent/
Complainant

2.A.Maliha

... Respondent

*(R2 is impleaded as per order of the Court, dated 01.07.2025 in
Crl.M.P(MD)No.6363 of 2025 in CRL RC(MD)No.530 of 2025)*

PRAYER : Criminal Revision Case filed under Section 438 r/w 442
B.N.S.S., to set aside the order dated 12.03.2024 passed in Crl.M.P.No.
2363 of 2024 in C.C.No.1076 of 2023 by the Judicial Magistrate No.IV,



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Thoothukudi.
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For Petitioner : Mr.P.Prabhakaran
For R1 : Mr.M.Sakthikumar
Government Advocate(Crl.Side)
For R2 : Mr.G.Mohankumar

ORDER

Challenging the order passed by the Judicial Magistrate Court No.IV, Thoothukudi in Crl.M.P.No.2363 of 2024 in C.C.No.1076 of 2023, dated 12.03.2024, this revision case is filed.

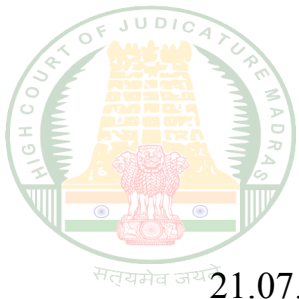
2. The petitioners before this Court are accused Nos.1 and 2 in C.C.No.1076 of 2023. The petitioners herein have filed a discharge petition in Crl.M.P.No.2363 of 2024 before the learned Trial Court under Section 239 of Code of Criminal Procedure, 1973. However, the learned Trial Court dismissed the same after perusing the final report, the incriminating documents and the counter affidavit filed by the prosecution and by observing that there is a *prima facie* case as against the petitioners herein for framing of charges. Challenging the said order, dated 12.03.2024, this revision case came to be filed.



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3. The learned counsel for the petitioners submitted that on 08.12.2015 receiving information from the defacto complainant i.e., the 2nd respondent herein, an F.I.R in Crime No.45 of 2015 came to be registered as against the petitioners and 4 others including the Manager of State Bank of India, Srivaikundam Branch and the Sub Registrar, Srivaikundam, Thoothukudi District as accused Nos.4 and 5 for the alleged occurrence of offence which had happened on 21.07.2008. Hence, precisely for the alleged offence which was alleged to have happened on 21.07.2008, after a period of 7 years, F.I.R in Crime No. 45/2015 came to be registered as against the petitioners and 4 others. Claiming that the petitioners are falsely implicated in the aforesaid case, the learned counsel for the petitioners submitted that the defacto complainant has already filed a civil suit in O.S.No.9 of 2020 on the file of I Additional District Court, Thoothukudi and categorically contended that the 1st respondent police had initiated criminal action as against the petitioners and others by giving criminal color for a civil dispute. The learned counsel further pointed out that without considering the limitation aspects, the learned Trial Court had proceeded to dismiss the discharge petition for the occurrence allegedly to have happened on



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21.07.2008, for which a complaint was made after a lapse of 7 years on 08.12.2015. He also pointed out that for the alleged offence which had happened in the year 2008, complaint was lodged on 08.12.2015 and F.I.R came to be registered on the same date, for which final report was also filed by the 1st respondent police after a lapse of 6 years i.e., on 25.11.2021.

4. The learned counsel for the 2nd respondent submitted that the petitioners herein in collusion with the Sub Registrar, Srivaikundam have created/concocted sale deed bearing nos.762/2005 and 763/2005 with respect to the property belonging to the defacto complainant in favour of the 1st petitioner and on the strength of the said documents, have also effected mutation with respect to the defacto complainant's property and making use of the said document in collusion with the 5th accused Bank Manager, State Bank of India,, Srivaikundam, have also availed mortgage loan.

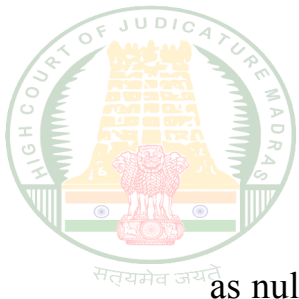
5. The learned Government Advocate (Crl.Side) categorically submitted that there is no infirmity in the order passed by the learned



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Trial Court. The petitioners are the tenants who have availed the house of the defacto complainant for rent. However, they have colluded with the accused Nos.4 and 5 for the purpose of creating two sale deeds bearing nos.762/2005 and 763/2005 fraudulently in favour of the 1st accused, on the strength of which, mutation was also effected with respect to the property belonging to the defacto complainant and further utilizing the same, they have also availed loan of Rs.3,00,000/- colluding with the 5th accused. In addition to that, they have also availed a loan of Rs.14,50,000/- from one Petchimuthu who had also been included in the list of witnesses by the respondent police. He also placed before me the judgment of the I Additional District Court, Thoothukudi in O.S.No.9 of 2020, dated 01.04.2025, in which the suit for declaration of title with respect to the plaint schedule property filed by the defacto complainant as against the petitioners herein as well as the District Collector, Thoothukudi and the 5th accused has been allowed by declaring the title of the defacto complainant with respect to the property in question and also by declaring the arrangement deeds executed by the 1st petitioner in favour of 2nd petitioner as null and void and the power deed, dated 22.08.2014 executed by the 2nd petitioner in favour of one Petchimuthu



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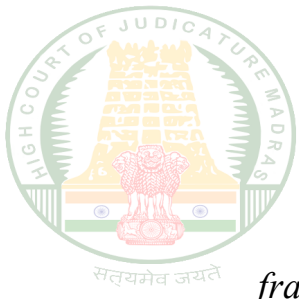
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as null and void and by cancelling the mortgage deed executed by the 2nd petitioner in favour of State Bank of India, Srivaikundam. Only after carefully perusing all the material and documents placed before the Trial Court and the statement under Section 161(3) of the Code of Criminal Procedure, 1973, and the list of witnesses submitted by the prosecution side, the Trial Court had come to a conclusion that a prima facie case exist as against the accused including the petitioners herein for framing of charges and had dismissed the discharge petition. He pressed for dismissal of the criminal revision case.

6. Heard the learned counsel for the petitioners, the learned Government Advocate (Crl.Side) for the 1st respondent and the learned counsel for the 2nd respondent and carefully perused the materials available on record.

7. The Hon'ble Apex Court in the case of ***Nitarpada Das Vs. Sundarsan Saranji*** reported in ***1991 Cr LJ 3012 (Ori)***, the High Court of Orissa has held as follows:

“Where complaint statement of witness and documents filed along with the charge sheet, show prima facie material to



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frame charge, the accused would not be discharged.”

In yet another case in ***Diamond Cables Ltd Vs. State of Andhra Pradesh*** reported in ***2004 Cr LJ 4100 (4104) (AP): 2004 (2) Andh Ld (Cri) 305***, the High Court of Andhra has held as follows:

“Mere delay in trial is no ground for discharging the accused.”

In another case in ***Nirmaljit Singh Hoon Vs. State of West Bengal*** reported in AIR 1972 SG 2639, the Hon'ble Supreme Court has held as follows:

“The test is whether there was sufficient ground for proceeding and not whether there is not sufficient ground for conviction, and where there was prima facie evident, even though the person charged of an offence in the complaint might have defence, the matter had to be left to be decided by the appropriate forum at the appropriate stage.”

8. Accordingly, considering the fact that *prima facie* case prevails as against the petitioners herein, the learned Trial Court rightly dismissed the discharge petition. There is no infirmity in the impugned



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order. Hence, this Criminal Revision Case stands dismissed.

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Consequently, connected Miscellaneous Petition is closed.

03.09.2025

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

gbg / Sml

To

- 1.The Judicial Magistrate No.IV,
Thoothukudi.
- 2.The Inspector of Police,
District Crime Branch II,
ALGSC, Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

gbg / Sml

**Order made in
Crl.R.C.(MD)No.530 of 2025**

Dated: 03.09.2025