



Crl.O.P.(MD) No.6816 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.6816 of 2025

and

Crl.M.P.(MD) No.4972 of 2025

1.Marimuthu

2.Karuppayee

3.Rekha

... Petitioners

Vs.

1.The State of Tamil Nadu
Represented by
The Inspector of Police,
District Crime Branch Police Station,
Sivagangai District.
(Crime No.33 of 2019)

2.Packiyam

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the entire records pertaining to the impugned final report filed in C.C.No.481 of 2022 on the file of the learned Judicial Magistrate No.2, Sivagangai and quash the same as illegal.

For Petitioners : Mr.R.Karunanidhi



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Crl.O.P.(MD) No.6816 of 2025

For R1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

For R2 : No appearance

ORDER

This Criminal Original Petition has been filed to quash the final report filed by the first respondent against the petitioners for the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code, 1860, in C.C.No.481 of 2022 on the file of the learned Judicial Magistrate No.II, Sivagangai.

2. The allegation in the final report is that the petitioners/accused deceived the second respondent/defacto complainant and obtained a sum of Rs.1,75,000/- on the promise of returning the same; that thereafter, they had executed a document on 06.08.2018 (wrongly stated as 30.07.2018 in the final report), wherein they confirmed the receipt of Rs.1,75,000/- and handed over possession of the house, agreeing to sell the same to the second respondent/defacto complainant; and that in spite of repeated requests, the petitioners/accused failed to return the said sum of Rs. 1,75,000/- and thus committed the aforesaid offences.



Crl.O.P.(MD) No.6816 of 2025

WEB COPY

3. The learned counsel for the petitioner would submit that even if the allegation in the final report is accepted to be true, the offences under Sections 406, 420 and 120B of the Indian Penal Code, 1860, are not made out; that there was no deception at the inception and according to the second respondent/defacto complainant, the petitioners had taken a loan and executed a document on 06.08.2018 handing over possession of the property; and that the allegations at best would constitute only a breach of contract or breach of promise and therefore, the impugned final report is an abuse of the process of law and is liable to be quashed.

4. Though the notice sent to the second respondent/defacto complainant has been served and his name has been printed in the cause list, none has entered appearance.

5. The learned Additional Public Prosecutor for the first respondent would submit that it is a fact that a sum of Rs.1,75,000/- was received by the petitioners from the second respondent/defacto complainant and that thereafter, they executed a document agreeing to sell the property to the second respondent/defacto complainant.



Crl.O.P.(MD) No.6816 of 2025

WEB COPY

6. The allegation in the final report is that the petitioners had taken a loan and thereafter executed a document agreeing to alienate the property to the second respondent/defacto complainant for the said sum. These two allegations, by themselves, are contrary to each other, as on the one hand it is stated that a sum of Rs.1,75,000/- was received by the petitioners as a loan, and on the other hand, it is stated that after receipt of the said amount, they executed a document on 06.08.2018 agreeing to sell the property.

7. In any case, this Court is of the view that the prosecution has not explained as to how the allegations constitute the offence punishable under Section 420 of the IPC, as there was no deception at the inception on the part of the petitioners. The allegation would, at best, amount to a breach of promise. The offence punishable under Section 406 of the IPC is also not made out, as there was no entrustment to attract the said offence. If the offences punishable under Sections 406 and 420 IPC are not made out, the offence punishable under Section 120B IPC would also not arise. Accordingly, the impugned final report is liable to be quashed and is hereby quashed.



Crl.O.P.(MD) No.6816 of 2025

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Consequently, connected Miscellaneous Petition is closed.

04.09.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

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



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Crl.O.P.(MD) No.6816 of 2025

SUNDER MOHAN, J.

JEN

Crl.O.P.(MD) No.6816 of 2025

04.09.2025