BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.11.2025

PRONOUNCED ON : 19.11.2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.7170 of 2025
and
Crl.MP(MD)No.5248 of 2025

1. K.Sivaraj
2. Mrs.S.Gowthami
3. A.Nandakumar ... Petitioners/Accused 1 to 3

Vs.

1. The State of Tamilnadu,
Rep by the Inspector of Police,
Batlagundu Police Station,
Dindigul District – 624 202.
Crime No.132 of 2025. ... 1st respondent/Complainant

2. Inspector of Police,
District Crime Branch-I,
Dindugal District, Dindugal. ... 2nd respondent/Investigation Officer

3. K.Balamuugan
S/o.Kasimayan,
Manager,
F.Robin Power Solutions Pvt. Ltd.,
Chinnupatti, Nilakottai Taluk,
Dindigul District. ... 3rd respondent/Defacto Complainant

PRAYER :- This Petition is filed under Section 528 BNSS, to call for the records pertaining to FIR in Crime No.132 of 2025 on the file of the 1st respondent police and quash the same.

For Petitioners : Mr.S.Manuraj
for M/s.Shabana M.F.

For Respondents : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor (for R1 & R2)
Mr.John Sathyan, Sr.Counsel
for Mr.K.Jeyamohan (for R3)

ORDER

The petition is to quash the impugned FIR registered for the offences under Sections 296(b), 318(4) 316(2), 351(2) of the BNS (corresponding to 294(b) 420, 405 and 506(ii) of the IPC).

2 (i). The gist of the allegation in the FIR is that M/s.Sivaraj Spinning Mills (P) Ltd., (hereinafter referred to as ***'the petitioner company'***) have a group of companies and among which M/s.Shanmugavel, Spinning Mills Limited had entered into an agreement with the company viz., F.Robin Power Solution Pvt. Ltd., (hereinafter referred to as ***'defacto complainant company'***) in which the defacto

complainant is the Manager for erection of 20MW solar power plant; that the total consideration was fixed as Rs.1,25,18,00,000/- [Rupees One Hundred and Twenty Five Crores and Eighteen Lakhs Only]; that thereafter the petitioner company, in which the 1st petitioner is the Managing Director had requested for installation of a 16MW solar power plant; that on 27.12.2021 the respondent had given an invoice for a sum of Rs.1,02,00,12,160/- [Rupees One Hundred and Two Crores Twelve Thousand One Hundred and Sixty Only]; that a purchase order was issued on the same day; that on 29.12.2021, the petitioner company gave a sum of Rs.1,00,00,000/- [Rupees One Crore Only] as an advance; that after the solar power plant was installed the petitioner company had given a further sum of Rs.1,00,15,66,000/- [Rupees One Hundred Crores Fifteen Lakhs and Sixty Six Thousand Only] and failed to pay the balance sum of Rs.1,84,46,160/- [Rupees One Crore Eighty Four Lakhs Forty Six Thousand One Hundred and Sixty Only]; that on 05.10.2023, a notice was sent for payment of the said sum; that the petitioner company also had gained a sum of Rs.12,36,95,160/- [Rupees Twelve Crores Thirty Six Lakhs Ninety Five Thousand One Hundred and Sixty only] as a GST waiver and in spite of the same, they had not paid the said sum of

Rs.1,84,46,160/- [Rupees One Crore Eighty Four Lakhs Forty Six Thousand One Hundred and Sixty Only]; that inspite of several reminders they did not make payment; that inspite of completing the project, the petitioners had given a false complaint against the defacto complainant's company and its Directors making it appear that in spite of the receipt of the money they had not erected the solar power plant and the petitioners have been continuously harassing the defacto complainant by giving several false complaints; and hence they had committed the aforesaid offences.

(ii) It is further the case of the prosecution that the respondents initially did not register the FIR and the defacto complainant had approached the learned Magistrate under Section 175(3) of the BNSS for registration of the FIR and on the directions of the learned Magistrate, the impugned FIR was registered.

3. The learned counsel for the petitioner would submit that the impugned FIR is a gross abuse of process of law; that the petitioners and the defacto complainant had several transactions; that even admittedly

out of Rs.102 crores, the defacto complainant had paid Rs.101 Crore and odd and the alleged balance is only Rs.1,84,46,160/- [Rupees One Crore Eighty Four Lakhs Forty Six Thousand One Hundred and Sixty only] and the allegation that the petitioners are liable to make the said payment would not be a subject matter of cheating or criminal breach of trust; that in fact the respondents had also filed a suit for recovery of the money in COS No.1 of 2024, before the District Court, Dindugal and the Court had also passed an order of attachment of the petitioner's property in IA.No.1 of 2024 on 13.02.2025 and since the issue is pending before the Civil Court and the issue raised in the petition only indicates a money dispute arising out of a contract, the impugned FIR is liable to be quashed and relied upon the following judgments of the Hon'ble Supreme Court.

i. ***Anukul Singh vs. State of Uttar Pradesh and Another***, reported in ***2025 SCC OnLine SC 2060***.
ii. ***Delhi Race Club (1940) Limited and others vs. State of Uttar Pradesh and another***, reported in ***(2025) 1 SCC (Cri) 281***.
iii. ***SC Garg vs. State of Uttar Pradesh and another***, dated 16.04.2025, in Crl.A.No.438 of 2018.

4. Mr.John Sathyan, learned senior counsel for the respondents would submit that though the issue may appear to be civil in nature, the petitioners instead of paying the amount due to the 3rd respondent have been repeatedly harassing the defacto complainant with false complaints and threatened them of dire consequences besides abusing them in filthy language. He would further submit that if the impugned FIR is quashed, the conduct of petitioners in filing false complaint against the 3rd respondent would be condoned and the 3rd respondent would have no other remedy. He would further submit that the pendency of the civil suit would not absolve the petitioners of their criminal liability.

5. The learned Additional Public Prosecutor reiterates the averments made in the FIR and submits that the investigation is at the nascent stage and that the FIR may not be quashed.

6. The fact is that the petitioner company in which the 1st petitioner is the Managing Director and other petitioners are said to be Directors and the defacto complainant's company had entered into a contract for erection of 20MW solar power plant; that later the petitioners restricted it

to 16MW; that the total contract value was fixed at Rs.102,00,12,160/- [Rupees One Hundred and Two Crores and Twelve Thousand and One Hundred Sixty only]; and that the petitioners paid Rs.101 Crore and odd.

7. It is the case of the defacto complainant that the balance amount of Rs.1,84,46,160/- [Rupees One Crore Eighty Four Lakhs Forty Six Thousand One Hundred and Sixty Only] has not been paid and therefore, the act of the petitioners would constitute the offence of cheating and criminal breach of trust.

8. Firstly those two offences could not go together as it is well settled that if it is the definite case of the respondent that there was deception. the allegation of entrustment would not be made out. In this case, it is not the case of the respondent that he had entrusted any property. Therefore, the offence of criminal breach is not made out.

9. As regards the allegation of deception, it is well settled that cheating by deception and breach of promise are two different acts. Admittedly out of the total contract amount of Rs.102 Crores only a sum

of Rs.1,84,46,160/- [Rupees One Crore Eighty Four Lakhs Forty Six Thousand One Hundred and Sixty Only] even according to the defacto complainant is due. The allegation would at best suggests that there is a dispute with regard to the payment of money and at the worst, there is a breach of promise on the side of the petitioners.

10. In ***Delhi Race Club's case*** [cited supra], the difference between the offence under Sections 406 and 420 IPC is explained, which is extracted hereunder:

> *"43.There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e., since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously."*

11. Admittedly in this case, a civil suit has also been filed by the 3rd respondent in which, it appears that there is an order of interim attachment of the properties of the petitioner's company. It is well settled

that though a civil suit is pending, it will not absolve the accused of criminal liability. However, the question is as to whether the petitioners would be guilty of cheating. As stated earlier, there is no deception at the inception. In ***Delhi Race Club's case*** [cited *supra*] it was held as follows:

> *"36. What can be discerned from the above is that the offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients. In order to constitute a criminal breach of trust (Section 406 IPC):*
>
> *1) There must be entrustment with person for property or dominion over the property, and*
> *2) The person entrusted:*
> *a) dishonestly misappropriated or converted property to his own use, or*
> *b) dishonestly used or disposed of the property or willfully suffers any other person so to do in violation of:*
> *i. any direction of law prescribing the method in which the trust is discharged; or*
> *ii. legal contract touching the discharge of trust (see: S.W.P. Palanitkar (supra).*
> *Similarly, in respect of an offence under Section 420 IPC, the essential ingredients are:*
> *1) deception of any person, either by making a false or misleading representation or by other action or by omission;*
> *2) fraudulently or dishonestly inducing any person to deliver any property, or*
> *3) the consent that any persons shall retain any property and finally intentionally inducing*

that person to do or omit to do anything which he would not do or omit (see: Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) Cr.L.J. 3462 (SC))

37. Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception."

12. The allegation in the impugned FIR does not suggest that any of the aforesaid ingredients are made out except for the fact that a small portion (Rs.1.84 Crores as against Rs.102 Crores) of the agreed amount remains unpaid.

13. As regards the offence under Section 294(b) of the IPC, it is well settled that unless the words uttered by the accused are obscene and made near a public place to the annoyance of others, it would not attract the offence under Section 294(b) of the IPC. The Hon'ble Supreme Court in the case of ***N.S.Madhanagopal and Another v. K.Lalitha*** reported in ***(2022) 17 SCC 818*** has held as follows:

"*8. It has to be noted that in the instant case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or* *words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC.*

9.To prove the offence under Section 294 IPC mere utterance of obscene words are not sufficient but there must be a further proof of establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants-accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out."

14. As regards the offence under Section 506(ii) of the IPC, the impugned FIR does not suggest that there was any real threat made by the petitioners. In ***Noble Mohandass vs. State*** reported in ***1989 Cri.Lj 669***, it has been held as follows:

"7. ..... Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at

whom threat is launched does not feel threatened actually. .....”

The above observations would squarely apply to the facts of this case.

15. The petitioners and the defacto complainant are seasoned businessmen dealing with hundreds of crores of rupees and this allegation of alleged threat appears to be not only an afterthought, but does not attract the offence of criminal intimidation.

16. Though it has been repeatedly held that the Courts must be slow in interfering in an FIR, the Hon'ble Supreme Court had also held that where the allegations are manifestly attended with malafides and they do not disclose a cognizable offence, the Courts are bound to interfere as there is a growing tendency to convert civil disputes into offences.

17. In ***Anukul Singh's case*** [cited supra], after elaborately considering the earlier judgments, the Hon'ble Supreme Court in the said case had held as follows:

> "*11.5. Thus, the cumulative principles that emerge are: while the jurisdiction under Section 482 Cr.P.C is extraordinary and must be exercised sparingly, it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law, or where the dispute is purely of a civil nature and criminal colour has been artificially given to it. Conversely, where disputed questions of fact arise requiring adjudication, the matter must ordinarily proceed to trial.*"

Therefore, this Court is inclined to quash the impugned FIR as it is an abuse of process of law.

18. Before parting with this case, this Court has to place on record certain disquieting features in this case. The impugned FIR runs to several pages. The complaint itself besides referring to disputes which are purely civil in nature had referred to the alleged harassment faced by the defacto complainant at the hands of the petitioners, who are alleged to have made false complaints against the defacto complainant. The fact that the petitioners had filed false complaints against the defacto complainant cannot justify the defacto complainant to lodge a complaint against the petitioners, which only discloses a civil dispute.

19. Be that as it may, the FIR was registered on the directions of the learned Magistrate. Since the order of the learned Magistrate has been verbatim extracted in the FIR, this Court had to peruse the same. The learned Magistrate had not applied his mind as to whether any of these offences are made out. The learned Magistrate has mechanically observed that there is a *prima facie* case for proceeding and directed registration of the FIR. The Hon'ble Supreme Court and this Court had time and again had held that registration of FIR leads to ignominy and has several serious consequences and therefore, the learned Magistrates must apply their mind before issuing any direction. In ***Priyanka Srivastava and another vs. State of Uttar Pradesh and others,*** reported in ***(2015) 6 SCC 287***, the Hon'ble Supreme Court has held as follows.

> ***20.*** *The learned Magistrate, as we find, while exercising the power under Section 156(3) CrPC has narrated the allegations and, thereafter, without any application of mind, has passed an order to register an FIR for the offences mentioned in the application. The duty cast on the learned Magistrate, while exercising power under Section 156(3) CrPC, cannot be marginalised. To understand the real purport of the same, we think it apt to reproduce the said provision:*

> *“**156.Police officer's power to investigate cognizable case**.—(1) Any officer in charge of a police station may, without the order of a Magistrate, investigate any cognizable case which a court having jurisdiction over the local area within the limits of such station would have power to inquire into or try under the provisions of Chapter XIII.*
> *(2) No proceeding of a police officer in any such case shall at any stage be called in question on the ground that the case was one which such officer was not empowered under this section to investigate.*
> *(3) Any Magistrate empowered under Section 190 may order such an investigation as abovementioned.”*

29. *At this stage it is seemly to state that power under Section 156(3) warrants application of judicial mind. A court of law is involved. It is not the police taking steps at the stage of Section 154 of the Code. A litigant at his own whim cannot invoke the authority of the Magistrate. A principled and really grieved citizen with clean hands must have free access to invoke the said power. It protects the citizens but when pervert litigations takes this route to harass their fellow citizens, efforts are to be made to scuttle and curb the same.*

30. *In our considered opinion, a stage has come in this country where Section 156(3) CrPC applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say*

> *so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.*

The learned Magistrate unfortunately has failed to exercise the discretion in the manner in which, it is ought to have been exercised.

20. Another feature that is equally disturbing is that the FIR contains several pages and without understanding as to what is the information that is sought to be recorded as FIR, the officer who registered the FIR had extracted the entire petition filed by the petitioner before the learned Magistrate and the order passed by the learned Magistrate as contents of FIR. Paragraph No.14 of the FIR is the order passed by the learned Magistrate in the petition filed under Section 156(3) of the Cr.P.C. The officer who had registered the FIR had not even cared to ascertain as to what was the information that was supposed to be recorded in the FIR.

21. The Director General of Police is therefore directed to issue suitable directions to the Station House Officers to record only the information received from the complainant in the FIR disclosing the cognizable offences and not unnecessary details such as the petition and the order passed by the learned Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973 as has been done in this case. The reading of the FIR in this case is bound to confuse any person, and hence this Court is forced to issue the above direction.

22. Hence, with the above observations, this Court is inclined to quash the impugned FIR. The Criminal Original Petition stands allowed. Consequently, the connected Miscellaneous Petition is closed.

19.11.2025

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

ars/dk

To
1.The Director General of Police,
No. 1, Kamarajar Salai,
Mylapore, Chennai-600004

2.The Inspector of Police,
Batlagundu Police Station,
Dindigul District – 624 202.

3.The Inspector of Police,
District Crime Branch-I,
Dindugal District, Dindugal.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

SUNDER MOHAN,J.

ars/dk

Pre-delivery order in
CRL OP(MD) No.7170 of 2025

19.11.2025