

CRL RC(MD)No.691 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.691 of 2025

1.T.S.Muthukrishnan

2.Murugesan

... Petitioners /Petitioners /
Defacto Complainants

Vs.

1.Mohammed Faruk

2.Murugan

... Respondents No.1 & 2/ Respondents No.
1 & 2 / Accused

3.The Inspector of Police,
District Crime Branch-II,
Thoothukudi.

... 3rd Respondent / 3rd Respondent /
Complainant

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records relating to the order dated 01.03.2025 passed by the learned Judicial Magistrate No.IV Court, Thoothukudi in Cr.M.P.No.114 of 2025 and set aside the same.

For Petitioner : Mr.V.Sathurthi Raja

For R-1 : Mr.P.Selvakumar

For R-2 : Mr.S.Kasirajan

For R-3 : Mr.M.Sakthi Kumar,
Government Advocate



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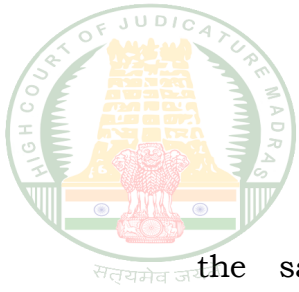
ORDER

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Challenging the order passed by the learned Judicial Magistrate No.IV Court, Thoothukudi, in Cr.M.P.No.114 of 2025, dated 01.03.2025, this Criminal Revision case is filed.

2. The petitioner had filed a petition under Section 175(3) of BNSS 2023 seeking to direct the 3rd respondent police to register a first information report as against the respondents 1 and 2. The allegation of the complainant is that the property comprised in Survey No.278/1 A of Varthagareddipatti village of Thoothukudi district, originally belonged to his grandmother, namely, Parvathi Ammal, as early as in the year 1957, by a decree in O.S.No.239 of 1957, on the file of the learned District Munsif Court, Thoothukudi district. The petitioner's mother, namely, Tmt.Petchiammal, being the sole legal heir of the said Parvathi Ammal, she had inherited the said property and had been enjoying without any hindrance to the knowledge of everyone.

3. In the meanwhile, the first respondent one Mohammed Faruk had created a fraudulent document in 1993 with respect to the said property and interfered with the peaceful possession and enjoyment of



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the said property and hence, the petitioner's mother, namely, Petchiammal, preferred a civil suit in O.S.No.486 of 1993 before the District Munsif Court at Thoothukudi. In the aforesaid suit, the first respondent herein who was the defendant had given an undertaking in writing that he will never claim the said property under any of the document in future and he had confirmed the ownership of the petitioner's mother, namely, Petchiammal, and on that basis, the decree of declaration was also passed by the learned District Munsif Court, Thoothukudi, in O.S.No.486 of 1993.

4. In the meanwhile, on 30.03.2022, the first respondent had further executed a sale deed with respect to the same property making use of the fraudulent deed in favour of the 2nd respondent against which the petitioner had lodged a complaint before the 3rd respondent police and due to the inaction of the third respondent police, the CrI.M.P.No. 114 of 2025 came to be filed. However, the learned Judicial Magistrate No.IV Court, Thoothukudi, recording the fact that already the petitioners herein have filed a civil suit as against the respondents 1 and 2 in O.S.No.7 of 2025 on the file of the District Munsif Court, Thoothukudi, had dismissed the same, directing them to settle their case before the Civil Court. Challenging the same, this Criminal



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Revision case has been filed.

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5. The learned counsel for the petitioner categorically contended that a pendency of the civil suit will not absolve the petitioner's right to seek for a criminal action for the fraudulent activity done by the respondents herein and pressed for allowing the Criminal Revision case by setting aside the impugned order.

6. The learned counsel appearing for the 2nd respondent submitted that the 1st respondent by not disclosing the factum of suffering a decree in the hands of the mother of the petitioner in O.S.No. 486 of 1993, he had executed a sale deed in his favour after obtaining Rs.25,00,000/- so he required this Court to remand back the matter to the 3rd respondent police for fresh action against the first respondent.

7. The learned counsel for the 1st respondent submitted that it is all the fraud which was committed by one broker, namely, Balsamy, he had defrauded both the 2nd respondent as well as the 1st respondent by misappropriating Rs.25,00,000/- which he had received from the 2nd



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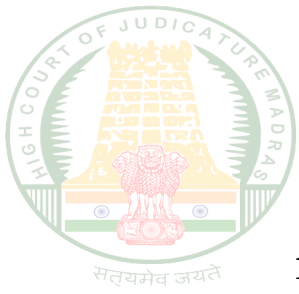
respondent and submitted his helplessness.

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8. Heard the learned counsels on either sides and carefully perused the materials available on record.

9. I don't find any merit in the order passed by the learned Judicial Magistrate No. IV Court, Thoothukudi. The Honorable Supreme Court in the case of ***Kathyayini vs. Sidharth P.S.Reddy & Others***,¹ has dealt with a similar case and had held that pendency of a civil suit on the same subject matter involving the same parties does not justify quashing criminal proceedings if a *prima facie* case exists against the accused persons. Precisely in the instant case, undisputedly the petitioner's mother is the owner in title and possession over the property in question by the strength of a decree in favour of her grandmother, namely, Parvathiammal in O.S.No.486 of 1993 on the file of the District Munsif Court, Thoothukudi, and the mother is also a holder of a decree as against the same 1st respondent in O.S.No.486 of 1993.

¹ 2025 LiveLaw (SC) 712



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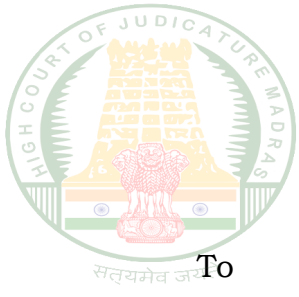
10. Interestingly, the 1st respondent had filed a written affidavit by accepting the title of the petitioner's mother in the aforesaid suit, and only based on that undertaking, the decree itself has been passed in favour of the petitioner's mother. Hence, it is a clear case of fraud on the part of the 1st respondent for having executed a sale deed in favour of the 2nd respondent. The 2nd respondent claims and seeks criminal action as against the first respondent for being deceived.

11. In view of same, the impugned order is set aside and the 3rd respondent police is directed to register a criminal case as against the 1st respondent forthwith. The 2nd respondent is directed to lodge a complaint before the 3rd respondent police against one Thiru.Balsamy and the 3rd respondent is directed to look into the said matter as well.

12. Accordingly, this Criminal Revision case is allowed. No costs.

24.07.2025

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

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



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L.VICTORIA GOWRI, J.,

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