IN THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.04.2025

Pronounced on: 16.07.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.(MD) No.21914 of 2022
and Crl. M.P. (MD) Nos.15437 and 15439 of 2022

1. M. Karthikeyan S/o. Murugan
Manager,
Canara Bank (Erstwhile Syndicate Bank),
Karur.

2. A. Ramalingam S/o. R. Ananthasubbu,
Ex-Regional Manager,
Canara Bank (Erstwhile Syndicate Bank),
Salem.
At present, Deputy General Manager,
Canara Bank (Erstwhile Syndicate Bank),
HO, 6648, 112, JC Road,
Bengaluru - 560 001.

3. Sampath Kumar Chary
S/o. V. Chellamma Chary
General Manager
(NPA Management and Legal Department),
Canara Bank (Erstwhile Syndicate Bank),
2nd Cross, Gandhi Nagar, Bengaluru.
At present, GM Legal Department,

Canara Bank, Corporate Office,
No.112, J.C. Road, Bengaluru.

4. The Regional Manager,
Canara Bank,
At present: Regional Office,
No.1, Muthaiah Towers, Royal Road,
Tiruchirappalli - 620 001.

5. The Deputy General Manager,
Canara Bank,
Circle Office,
No.243, S.T. Manary Campus,
East Veli Street, Madurai - 625 001. ... Petitioners /A2, 6, 8, 9 & 10.

Vs

1. The State of Tamil Nadu,
The Inspector of Police,
Economic Offences Wing-II,
Karur Town & District.
(Ref: Crime No.1/2022) ... 1st Respondent / Complainant.

2. Jaikavitha D/o. R. Selvaraj ... 2nd Respondent / Defacto Complainant.

PRAYER: - The Criminal Original Petition is filed under Section 482 of Code of Criminal Procedure praying to call for records and quash the First Information Report in Cr. No.1/2022 dated 17.02.2022 registered by the respondent namely The Inspector of Police, Economic Offence Wing-II, Karur for the offences under Sections 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC, as far as the petitioners are concerned.

For Petitioners : Mr. A. Ramesh, Senior Counsel
for Mr. D. Shanmuga Raja Sethupathy

For Respondents : Mr. M. Sakthi Kumar [for R1]
Government Advocate [Criminal]

Mr. P. Shamuvel Gunasingh
[for R2]

ORDER

This Criminal Original Petition has been filed to call for records and to quash the First Information Report in Cr. No.1 of 2022 on the file of the 1st respondent police for the offences under Sections 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC.

2. The ***case of the prosecution*** is that the defacto complainant, who is the 2nd respondent herein, has lodged a complaint against her

husband, bank Managers and other Staff of the bank stating that the 1st accused is her ex-husband, that he along with the bank Managers of erstwhile Syndicate Bank, now amalgamated with Canara Bank, conspired together and in order to grab the properties of the defacto complainant worth about Rs.35 crores, without her knowledge, by putting her signature in the year 2014, obtained loan to the tune of Rs.4 crores in the name of M/s. Morvi Exports, thereby they manipulated the bank accounts and forged the documents. The 1st accused obtained loan for the partnership firms M/s. Morvi Export and M/s. Ram Textiles, where the defacto complainant and her daughters are also the partners. M/s. Ram Textiles availed loan from Syndicate Bank, which is now amalgamated with Canara Bank, by mortgaging their properties for security purpose. In the year 2007, M/s. Ram Textiles obtained loan for a sum of Rs.6 lakhs and on 11.09.2008, M/s. Morvi Exports availed loan for a sum of Rs.16 lakhs. Thereafter, on 01.04.2009, the defacto complainant and her daughters, had retired from the partnership firm. Thereafter, the above said partnership firms were functioned under sole proprietorship. Thereafter, in the year 2009, the outstanding loan amount went upto Rs.23.96 crores and some of the properties were sold and Rs. 10.78 crores was settled towards loan.

2.1. While so, on 03.05.2010, the 1st accused Manickavasagam had executed a Settlement Deed in favour of the 2nd respondent, thereby the properties became the absolute properties of the 2nd respondent. Since the loan was obtained by the partnership firms and the 2nd respondent stood as guarantor for the said loan, the above properties were mortgaged towards security for the loan. While so, on 05.10.2010, the bank issued a notice u/s.13(2) of the SARFAESI Act stating that M/s.Morvi Exports was liable to pay Rs.11.8 crores and M/s. Ram Textiles was liable to pay Rs.2.09 crores and total outstanding amount payable by the partnership firms was Rs.13.17 crores and hence, the above said loan amounts were declared as Non-Performing Asset.

2.2. On 16.11.2010, one of the properties were sold and the defacto complainant settled certain dues to the tune of Rs.8.17 crores for

M/s.Ram Textiles on 15.04.2011. As on 27.08.2011, 28 PCL loans were due, to the tune of Rs.12.57 crores for M/s.Morvi Exports. Thereafter, again one of the mortgaged properties were sold on 29.03.2012 and a sum of Rs.1.85 crores was paid. In the meantime, the 1st accused Manickavasagam demanded the properties, which were settled in favour of the 2nd respondent and tortured the defacto complainant / 2nd respondent, thereby, she left the matrimonial home and settled at Erode from April 2012 onwards.

2.3. While so, the said Manickavasagam by colluding with the bank officials acted against the 2nd respondent. Thereafter, the 2nd respondent issued a notice to the bank on 07.08.2012, 02.11.2012 and 06.12.2012 stating that the mortgaged properties are the absolute properties of the 2nd respondent. While so, in the year 2012, the 1st accused colluded with bank officials and M/s. Power Creating Zone Private Limited, filed a petition before the Debt Recovery Tribunal in S.A. No.96 of 2012 alleging that the properties belong to the 1st accused and he borrowed money from the 2nd accused for the company and entered into an agreement on 18.04.2012. Thereafter, the 2nd respondent filed an application before the Debt Recovery Tribunal and the same was disposed of by holding that the properties belong to the defacto complainant. On 27.03.2012, the bank issued Statement of Accounts in respect of M/s.Morvi Exports stating that a sum of Rs. 13,85,53,594.92 is due as on 27.03.2012. As on 31.12.2012, the principal amount was paid and interest is due for Rs.2,49,38,274.89.

2.4. On 31.03.2013, 24 PCLs were discharged and for remaining 4 PCL debts, the principal amount was paid and interest amount is Rs. 49,38,274.89. In fact, from 01.09.2009 to 31.03.2013, Rs.37.55 crores were paid. But in the above said account, only Rs.21.32 crores was shown credit for the said PCL debts. For the remaining amount of Rs. 16.23 crores, a current account was opened in the name of M/s.Morvi Exports and they took a sum of Rs.2.45 crores and the same was credited into the account opened by the 1st accused and Rs.5.14 crores was credited with another account. Totally Rs.7.54 crores was taken from the account of M/s. Morvi Exports. But there are no records as to what about the above said amount taken from the account.

2.5. Already a sum of Rs.8.17 crores was paid towards debts in the name of M/s. Morvi Export and Rs.21.32 was paid for M/s. Ram Textiles to the bank and there was a deposit of Rs.70 lakhs in the name of M/s.Ram Textiles. Therefore, totally Rs.30.19 crores was settled on 31.03.2013 towards debts in the name of M/s.Morvi Exports. Therefore, the interest for 4 PCL loan for a sum of Rs.49,38,274.89 was closed and on 31.03.2013 itself, the entire loan amount for M/s.Morvi Exports was also closed. Therefore, Non-Performing Assets of both the companies were closed and M/s.Morvi Exports' account was declared as 'standard Asset' by the bank to the CRIF.

2.6. Since already the entire amount was settled, the properties mortgaged for that amount was discharged. Therefore, the notice issued by the bank under SARFAESI Act on 27.09.2011 is void as on 31.03.2013. Therefore, the bank is liable to hand over the documents to the 2nd respondent. However, in the cases in S.A. No.96/2012 pending before the Debt Recovery Tribunal and W.P. No.35198 of 2012 before this Court, they stated that there is a due of Rs.1.45 crores payable by M/s.Morvi Exports as on 08.04.2013.

2.7. While the facts are being so, the 1st accused colluded with the bank officials, in order to grab the properties of the 2nd respondent worth about Rs.35 crores obtained a new Packing Credit loan to the tune of Rs. 4 crores in favour of sole proprietorship concern M/s.Morvi Exports and the same was declared as Non-Performing Asset on 15.12.2014 and the same was recorded as 'continuation of old NPA' for the period of 2010 and the new debt was converted as Reversal Entry. Thereby, the accused have forged the documents and cheated the 2nd respondent by showing a new loan obtained on 15.12.2014 as continuation of old loan borrowed in the year 2010 and had shown dues as Rs.11.75 crores for NPA declared on 07.04.2010. Since the 2nd respondent had retired from the partnership firm as early as on 01.04.2009, the subsequent loan borrowed by M/s.Morvi Exports will not bind with the 2nd respondent. Therefore, the SARFAESI proceedings against the properties belong to the 2nd respondent are against law. The 6th accused, suppressing the loan obtained in the year 2014, stated that there is a due of Rs.11.75 crores for the old NPA declared on 07.04.2010 through his proceedings dated 07.03.2018. Thereby, attempted to grab the properties. Therefore, the 2nd respondent lodged a complaint before the Economic Offence Wing and the same was forwarded to the Superintendent of Police, Karur and in turn, the same was forwarded to the 1st respondent police and they registered a case in Cr. No.1 of 2022 and the same is now under challenge by the accused 2, 6, 8, 9 and 10.

3. The learned Senior counsel appearing for the petitioners would submit that the 2nd respondent lodged a false complaint against the petitioners and other accused. Based on the same, the 1st respondent police registered a case in Cr. No.1 of 2022 for the offences under Sections 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC. In fact, there is a matrimonial dispute between the 2nd respondent and the 1st accused. The 2nd respondent, 1st accused and their daughters are the partners in the partnership firms namely M/s.Morvi Exports and

M/s.Ram Textiles. They obtained loan from the erstwhile Syndicate Bank, now amalgamated with Canara Bank, to the tune of Rs.6 crores for M/s. Ram Textiles and Rs.16 crores for M/s. Morvi Exports by mortgaging their properties. Thereafter, the defacto complainant and her daughters retired from the partnership firms on 01.04.2009 and thereafter, the said partnership firms had become sole proprietorship and the 1st accused became the sole proprietor.

3.1. Since there was default in repayment of loan, the outstanding amounts were classified as Non-Performing Asset on 07.04.2010 and the Canara bank initiated Proceedings under SARFAESI Act, for the recovery of outstanding dues to the tune of Rs.11,08,19,798/- and the physical possession of the property was taken over by the bank under SARFAESI Act proceedings. The 1st accused Manickavasagam had proposed for one time settlement on behalf of the firm and he agreed to pay Rs.12.50 crores towards full and final settlement and also paid a sum of Rs.3 crores on 09.04.2012 and the balance amount has to be paid on or before 30.04.2012.

3.2. Thereafter, M/s. Morvi Exports through the partner Manickavasagam had informed the bank that M/s. Power Creating Zone Private Limited was ready and willing to purchase the secured assets in pursuance of the sale agreement between them. As the 1st accused failed to pay the remaining amount within the stipulated time, the One Time Settlement scheme was cancelled and the bank proceeded with further action under SARFAESI Act by issuing a Sale Notice dated 11.10.2012. While so, M/s. Power Creating Zone Private Limited filed a petition in S.A. No.96 of 2012 before the Debt Recovery Tribunal No.II, Chennai challenging the said sale notice on the ground that there was a sale agreement between the 1st accused and M/s. Power Creating Zone Private Limited for purchasing the property. The Debt Recovery Tribunal has passed an interim order dated 26.10.2012 directing the applicant company to pay Rs.4 crores in two installments on or before 28.12.2012. Thereafter, the time was extended and the applicant company paid Rs.4 crores and the said amount was credited in the loan account of M/s.Morvi Exports and the Canara Bank had received a sum of Rs.1105 lakhs into loan account between 20.06.2012 and 25.02.2013 including the amount of Rs.4 crores remitted by M/s. Power Creating Zone Private Limited.

3.3. In the meantime, the defacto complainant filed an impleading petition before the Debt Recovery Tribunal and the same was allowed. After hearing both the parties, the Debt Recovery Tribunal has dismissed the application filed by M/s.Power Creating Zone Private Limited and directed the bank to refund Rs.4 crores to M/s.Power Creating Zone Private Limited. The Sale Notice issued by the bank had not been set aside and thereafter, the recovery proceedings were initiated by the bank. Based on the order passed by the Debt Recovery Tribunal, the bank had refunded Rs.4 crores by four demand drafts dated 26.11.2014 to the applicant namely M/s.Power Creating Zone Private Limited . Accordingly, the amount received from M/s. Power Creating Zone Private Limited under the interim order and credited into the loan account of defaulting partnership firm, was refunded by the Canara Bank from the loan account of defaulting Partnership firm. As such, the above amount of Rs.4 crores had become due to the Canara Bank by the defaulting Partnership firm namely M/s.Morvi Exports.

3.4. Since there was no provision in the software to debit the amount, which was already remitted and adjusted as against the loan amount, a new account number was assigned to the loan account of M/s. Morvi Exportson 26.11.2014. Since the entire liability arising out of loan transaction was not paid and the charge created on the secured asset, was not exonerated as on 26.11.2014. Besides the above said amount which was refunded to the proposed purchaser / third party and it was become due, there are other liabilities in respect of 4 other PCL. The above said facts are being falsely projected by the defacto complainant that the entire loan amount was repaid by the firm and the charge created on the secured assets in pursuance of the mortgage was discharged, therefore, the Canara Bank was liable to handover the documents of the mortgaged properties.

3.5. The defacto complainant conveniently failed to mention about the refund of Rs.4 crores credited into the account of M/s.Morvi Exports through payment from M/s.Power Creating Zone Private Limited and taking advantage of some error in the CRIF Report, alleged that 5 new loans were opened on 13.09.2019. But in fact, they were not new loans. The loans already existing in the name of M/s.Morvi Exports have undergone changes during version upgradation as well as amalgamation. Both the account numbers are relating to one and the same account transaction. But both the account numbers are erroneously shown in the erred CRIF report. The date of sanctioning the loan as mentioned in the CRIF report would clarify the above aspect. As such, these accounts are not new loan accounts.

3.6. Therefore, the 2nd respondent has lodged a false complaint and already the defacto complainant filed a Writ petition before this Court in W.P. No.35198 of 2012 seeking Writ of Mandamus to direct the authorised officer of the bank to conduct public auction in respect of

1/4th of the property, appropriate the amount with interest and refund the amount to the Canara Bank and to give back the rest of the property to her and the same was dismissed with cost of Rs.10,000/- for having filed frivolous petition by the defacto complainant. The defacto complainant also filed a Suit in O.S. No.91 of 2016 before the Principal Sub Court, Karur seeking declaration that the loan of M/s.Morvi Exports was already settled and she is not liable to pay the loan amount and sought permanent injunction restraining the Canara bank from initiating any proceedings against her and mortgaged properties and the same is also pending. Suppressing the same, the present complaint has been filed with malafide intention. As far as the offences under Sections 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC are concerned, no ingredients to constitute the offences even as per the FIR. Therefore, the pending FIR as against these petitioners is liable to be quashed.

4. The learned Government Advocate (Criminal side) appearing for the 1st respondent would submit that based on the complaint lodged by the 2nd respondent, the 1st respondent police registered a case in Cr.

No.1 of 2022 for the offences 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC and thereafter conducted investigation and examined witnesses and collected the documents. As per the materials collected during the investigation, there are prima facie materials available as against these accused, thereby, they filed a charge sheet before the Jurisdictional Magistrate and the learned Magistrate has also taken cognizance in C.C. No.6 of 2019. Therefore, the FIR cannot be quashed and the petition is liable to be dismissed. The petitioners have to challenge the charge sheet and the present prayer is only for the quashment of the FIR.

5. The learned counsel appearing for the 2nd respondent / defacto complainant would submit that all the accused conspired together, forged the documents, thereby, the defacto complainant lodged a complaint. Based on the complaint, the 1st respondent registered a case in Cr. No.1 of 2022 for the offences 120-B, 420, 406, 408, 409, 466, 467, 468, 471 and 477(A) of IPC. Thereafter, the 1st respondent police conducted an elaborate investigation and filed final report. As per the final report,

there are prima facie materials to constitute offences as against these petitioners. Now, the petitioners have challenged the FIR and thereafter, charge sheet has been filed. Therefore, they have to face trial.

6. Heard both sides and perused the entire materials available on record.

7. The petitioners, being the accused, have challenged the registration of FIR on the ground that no offences are made out and there are no ingredients to constitute the offences even as per the averments of the FIR, there is malafide intention in registering the FIR, since there is a huge delay. Due to default of repayments of loan, the bank acted as per the SARFAESI Act. In this case, there is no dispute that the properties were mortgaged with the bank for obtaining loan and a part amount was settled. For the remaining amount, the bank has initiated proceedings to recover the amount through SARFAESI Act.

8. As per the prosecution, the 1 and 2 accused colluded with the bank officials created the documents and created new accounts by forging the documents and falsified the accounts. Based on the complaint given by the defacto complainant, the 1st respondent conducted elaborate investigation and filed final report. During the pendency of investigation, these petitioners filed this petition challenging the FIR. As per the FIR, there are allegations to constitute offences. Therefore, the FIR cannot be quashed.

9. Some of the accused filed Writ petition as against the investigation officer. During the pendency of the Writ petition, the 1st respondent completed the investigation and filed final report and the petitioners have not challenged the final report. It is well settled law that even without challenging the final report, if the petitioners make out the case to quash the FIR, then the Court can pass orders based on the contents of the FIR. In the case on hand, there are serious allegations levelled against the petitioners as per the FIR and once the 1st

respondent filed the final report as against these petitioners based on the materials, it is for the petitioners to challenge the final report, since there are allegations to constitute the offences as per FIR. Some of the petitioners challenged the final report in Crl. O.P. No.9731 / 2024 and the same is also heard along with this petition. Therefore, FIR cannot be quashed as there are materials to constitute the offences. Therefore, the petitioners are not entitled to the relief as prayed for and the petition is liable to be dismissed.

10. As far as the grounds raised by the petitioners in this petition are concerned, they cannot be considered at this stage. Even according to the petitioners, the amount refunded to M/s. Power Creating Zone Private Limited was debited from the account of M/s.Morvi Exports and since the account was closed, they assigned a new Account number and other 4 PCLs have not been closed. The above said facts and the plea of malafied intention cannot be considered at this stage and all the grounds raised by the petitioners cannot be considered.

11. In view of the above discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

12. Accordingly, the Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

16.07.2025
[1/2]

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
mjs

To

The State of Tamil Nadu,
The Inspector of Police,
Economic Offences Wing-II,
Karur Town & District.

CRL O.P.(MD) No.21914 of 2022

P.DHANABAL,J

mjs

Pre-delivery Judgment in
CRL O.P.(MD) No.21914 of 2022

16.07.2025
[1/2]