



Crl.O.P.(MD)No.19562 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.19562 of 2024

and

Crl.M.P(MD) Nos.12072 and 12073 of 2024

1. V.Jeyarani
2. R.Varatharaj
3. V.Anburaj
4. VA. Shanmugaraj

.. Petitioners

Vs.

K.A.Arumugam

.. Respondents

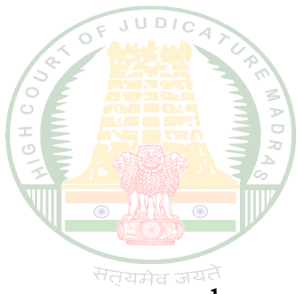
PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records in C.C. No. 251 of 2024 on the file of the learned Judicial Magistrate No.II, Sivagangai and quash the same.

For Petitioner : Mr.R.Sundar Srinivasan

For Respondent : Mr.K.Gokul

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.251 of 2024 on the file of the learned Judicial Magistrate No.II, Sivagangai



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2. The respondent herein has filed a private complaint before the learned Judicial Magistrate No.II, Sivagangai and the same was taken cognizance against the petitioners and the same is pending before the trial Court .Now the petitioners who are arrayed as A3 to A6 have filed this petition.

3. The learned counsel appearing for the petitioner would submit that the respondent has lodged a false complaint against the petitioners and others and thereby the trial Court has taken cognizance and the same is pending in CC No.251 of 2024. The respondent as complainant earlier lodged complaint before the jurisdiction police and the same was closed as Mistake of Fact .Whiles the learned Magistrate without assigning specific reasons as to how the penal provisions have been made out had taken cognizance. So far as offences under Sections 468 and 471 of IPC are concerned the reading of the complaint would show that there is no mention about the forgery of signature of the complainant or of any impersonation and the main substance of the allegation is that the third accused in the complaint had executed a document in respect of the property without title. Further the said complaint would disclose a civil dispute and when there is no allegation that the first petitioner had forged



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the signature of the complainant or of any other person, no offence would attract. So far as offence under Section 420 of IPC is concerned there is no transaction between the respondent and the petitioners . Even as per the allegation in the complaint there is no any wrongful gain obtained from the respondent by the first petitioner by making false representation or otherwise, when the material and basic ingredients of Section 420 of IPC could not be made out, the complainant ought to have approached the Civil Court for appropriate remedy .The civil case has been converted into criminal case, thereby the pending proceedings are liable to be quashed.

4. The learned counsel appearing for the respondent would submit that the petitioner and others have sold the property of the partnership firm and not rendered proper accounts of the properties which were sold without consent of the partners, thereby he lodged complaint. The petitioners herein created documents and sold the property without any title, thereby he lodged complaint and based on the same the trial Court has taken cognizance in C.C.No.251 of 2024. There are prima facie materials available to constitute the offence and thereby the petition is liable to be dismissed.



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5. Heard both sides and perused the materials available on record.

6. As per the records it is seen that the respondent lodged a complaint before the concerned jurisdictional magistrate Court and the same was taken cognizance for the offences under Sections 468, 471 and 420 of IPC. The petitioner has produced summons where there is no mention about the offence charged against the petitioner and it was mentioned as 200 of Cr.P.C., There is no any speaking order for taking cognizance and even as per the complaint there are disputes between the parties in respect of the partnership firm.

7. According to the complaint the properties of partnership firms were sold by the one of the partners to the third parties, therefore the matter is purely civil in nature. So far as offence under Sections 468 and 471 of IPC are concerned there are no materials to show that there was a transaction between the first respondent and the petitioner and the petitioners have not dishonestly deceived the defacto complainant and thereby the offence under Sections 420 of IPC would not attract. So far as offence under Section 468 and 471 of IPC are concerned the reading of the complaint would show that there is no mentioned of forgery of signature



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of the complainant or any impersonation. The main allegation is that the third accused had executed document in respect of the property without any title. Therefore the above said allegations would not constitute the offence under Section 468 of IPC. Once the offence under Section 468 of IPC would not attract section 471 of IPC would not attract. Since the matter is pertaining to partnership dispute the defacto complainant ought to have approached the civil Court for appropriate relief and civil disputer has been converted into criminal colour, thereby the pending proceedings is abuse of process of law and the same is liable to be quashed.

7. Accordingly the Criminal Original Stands allowed and the proceedings in C.C.No.251 of 2024 on the file of the learned Judicial Magistrate No.II, Sivagangai is hereby quashed as against this petitioners alone. Consequently connected miscellaneous petitions stand closed..

25.04.2025

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

The Judicial Magistrate No.II, Sivagangai



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P.DHANABAL,J.

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