



CRL O.P.(MD) No.21347 of 2024

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IN THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.04.2025

Pronounced on: 24.07.2025

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP. (MD) No.21347 of 2024
and Cr1. M.P. (MD) No.5645 of 2025

1. Rajunarayanan S/o. Periyakaruppan
 2. Elilarasi W/o. Rajunarayanan
 3. Periyakaruppan S/o. Muthusamy
 4. T. Pandiselvi D/o. C. Thangavelu
 5. Velmurugan S/o. Periyakaruppan
 6. C. Thangavel S/o. Sellaiah
- Petitioners

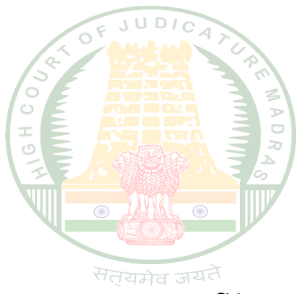
Vs

1. State represented by:

The Inspector of Police,
District Crime Branch,
Sivagangai.
(Cr. No.18 of 2021)

2. A. Irulappan S/o. Ananthan
- ... Respondents

PRAYER: The Criminal Original Petition is filed under Section 528 of B.N.S.S. praying to call for the records in C.C. No.744 of 2022 on the



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file of the learned Judicial Magistrate No.II, Sivagangai and quash the same.

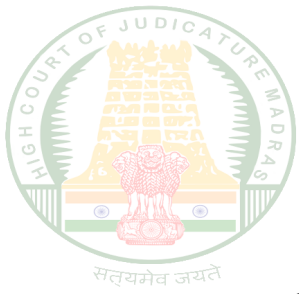
For petitioners : Mr. M. Mohamed Riyaz
For Respondents : Mr. Vaikkam Karunanithi
[for R1]
Government Advocate
(Criminal side)

Mr. C. Arul Vadivel @ Sekar
Senior Counsel for
Mr. A. Karthik [for R2]

ORDER

This Criminal Original petition has been filed to quash the proceedings in C.C. No.744 of 2022 on the file of the Judicial Magistrate No.II, Sivagangai.

2. The ***case of the prosecution*** is that the defacto complainant was doing construction work at Singapore by taking sub contracts of metro train work orders and used to take the workmen from India to Singapore and was running a company in the name and style of M/s.LCM Civil Engineering (S) PTE Ltd., as the Director of the said company. While so, in the year 2007, the 1st accused approached the brother of the defacto



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complainant for a job at Singapore and he was also appointed as an 'Accountant System Manager'. Thereafter, the 1st accused got married with the 2nd accused and they resided at Singapore and the cheque signing power was given to A1. The 1st accused was drawing a salary of 2000 Dollars per month. The 2nd respondent further started three companies under the name and style of M/s.SRS Pretecia, SRS Civil Engineering (S) PTE Ltd., and SRS Construction @ Engineering (S) Ltd., and used to do construction work. While so, in the month of July 2017, when the defacto complainant audited the accounts, came to know that the 1st accused himself has approved the cheques and misappropriated the funds and transferred the funds of the defacto complainant's company to the account of A1 in A/c. No.30913321797 in the State Bank of India, Eriyur Branch, Sivagangai District and also transferred the funds to the ICICI Bank, Eraiyur Branch in Account No. 6061011075005 and Axis Bank at Chennai in Account No. 91001007911439. Further, transferred the amount to his wife/2nd



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accused's State Bank of India, Eraiyur Branch Account No. 32778520085, to A3 and A4's Indian bank, Nachiyarpuram Branch Account No.959370021 and to A5 and A6's State Bank of India, Eriyur Branch Account No.30299557896 and to the account of his brother Velmurugan totally to the tune of Rs.3,50,00,000/-. Using the above said amounts, all the accused had purchased properties in their names and when the same was questioned by the defacto complainant, the accused escaped from Singapore and settled at India.

2.1. Thereafter, the defacto complainant lodged a complaint before the Singapore police on 17.06.2017, but no action was taken, since the accused left from Singapore. Thereafter, the defacto complainant came to know that when the 1st accused was in India, through online, A1 transferred funds from the defacto complainant's account to the accounts of 1 and 2 accused as shown below:



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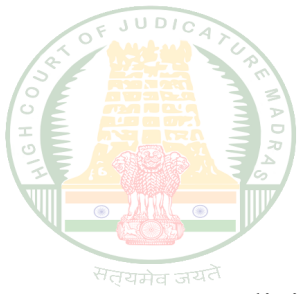
Alleged transaction from the defacto complainant's account to A1's account at State Bank of India, Eriyur Branch, Sivagangai

Sl. No.	Date of alleged transaction	Alleged amount transferred (Rs.)
1.	11.04.2016	2,36,919/-
2.	11.04.2016	45,000/-
3.	11.04.2016	6,33,000/-
4.	11.04.2016	8,00,000/-
5.	11.04.2016	1,00,000/-

Alleged transaction from the defacto complainant's account to A2's account at State Bank of India, Karaikudi Branch, Sivagangai

Sl. No.	Date of alleged transaction	Alleged amount transferred (Rs.)
1.	03.06.2014	4,00,000/-
2.	21.12.2015	2,75,000/-
3.	11.02.2016	5,00,000/-
4.	11.04.2016	31,28,000/-
5.	12.04.2016	1,75,000/-

Using the above said misappropriated amounts, the accused purchased the properties. Therefore, the defacto complainant lodged a complaint as against the accused before the 1st respondent police. Thereby, the 1st respondent Police registered a case in Cr. No.18 of 2021 for the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC and filed a final report and the same was taken cognizance by the learned

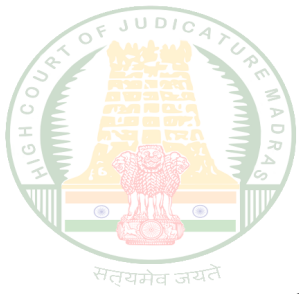


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Judicial Magistrate No.II, Sivagangai and the same is now pending in C.C. No.744 of 2022 on the file of the Judicial Magistrate Court No.II, Sivagangai.

3. The learned Senior counsel appearing for the petitioners would submit that the 2nd respondent lodged a false complaint against the petitioners alleging that the 1st accused was working as 'Accountant System Manager' and he misappropriated the funds and had illegally transferred the amounts from the account of the defacto complainant to the accounts of A1 and A2 and thereafter, the accused had purchased properties. There were 5 transactions in the name of A1's account on 11.04.2016 and there were 5 transactions in the account of A2 on five different dates. In fact, there is no bank statement collected from the defacto complainant's bank to show that the said amounts were transferred from the account of the defacto complainant to the accounts of A1 and A2. The prosecution has not filed any bank statement of the defacto complainant to substantiate the said allegations. The prosecution failed to establish that source of transaction was from the defacto

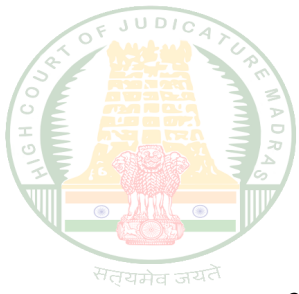


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complainant's account. In fact, the alleged credits into A1's account are self-transfers from his own deposit account (MOD) to his own savings account and the credits into A2's account originated from her own deposit accounts, with one transaction being a transfer from A1's credit card account to her savings account. Therefore, none of the transactions originated from the complainant's account and no any material on record to support any allegation of unauthorized withdrawal or misappropriation of funds.

3.1. The learned Senior counsel for the petitioner would further submit that as far as the allegations against A1 in respect of 5 transactions are concerned, the 1st amount was actually transferred from A1's MOD Account (Multi Option Deposit) No.34776305474 to his own savings account, the 2nd amount was transferred from the A1's MOD Account No.35623467286 to his own savings account, the 3rd and 4th amounts were transferred from the A1's MOD Account No.35577929887 to his own savings account and the 5th amount was transferred from the A5's account to the A1's account. Therefore no single amount was



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transferred from the account of the defacto complainant to the account of A1.

3.2. As far as the alleged transactions to the account of A2 are concerned, with respect to serial no.1, there was no transaction took place on 03.06.2014. As far as serial no.2 is concerned, the amount was transferred from the MOD account no.0035401005595 of A2 to her own savings account. As far as serial no.3 is concerned, the amount was transferred from the A1's DBS Bank Credit Card account to A2's Savings Account. As far as serial no.4 is concerned, Rs.18 lakhs was transferred from A1's Savings Account to A2's Savings Account by way of two cheque transactions, Rs.9,53,000/- was transferred from A2's MOD Account No.0035577954122 to her own Savings account, Rs. 25,000/- was transferred from A2's MOD Account No.0035401005595 to her own Savings Account, Rs.1,22,000/- was transferred from A2's MOD Account No.0035388113537 to her own Savings Account and Rs. 2 lakhs was transferred from A1's DBS Bank Credit Card account to A2's Savings Account. As far as serial no.5 is concerned, the amount

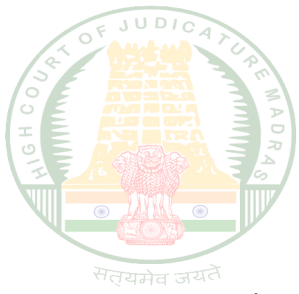


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was transferred from A2's MOD Account No.0035711933361 to her own Savings Account. Therefore, none of the above said transactions were made from the account of the defacto complainant to the accounts of A1 and A2. Therefore, the prosecution projected a false case.

3.3. Though the investigation officer, in the charge sheet, stated that the amounts were transferred from the account of the defacto complainant to the A1's account, the prosecution has not filed any materials to show that the amounts were actually transferred to the account of A1 from the defacto complainant's account. The prosecution has not shown any single transaction between the defacto complainant and the accused persons. No monetary transactions shown from the defacto complainant's account to the account of A1 to A6. Therefore the implication of the petitioners is baseless and unsupported by any records. In fact, the complaint is filed with malafide intention and the same is an abuse of process of law.

3.4. There was no any dishonest inducement to deliver a property



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or intent to cheat, for invoking Section 420 of IPC. As far as Section 468 and 471 of IPC are concerned, there are two ingredients to constitute such an offence. The prosecution has to establish the commission of 'forgery' as defined under Section 463 of IPC and the intent to use the forged document for the purpose of cheating. In this case, the prosecution has not produced any forged document allegedly created by the petitioners. The final report does not even identify any specific document that is allegedly forged. To attract Section 471 of IPC, the document in question must be a forged document, the accused used or attempted to use it as genuine. In this case, there is no forged document produced or relied upon by the prosecution. No act of using a forged document has been attributed to any of the petitioners. There are no materials to attract provisions under Section 120-B of IPC. Therefore there are no materials to attract provisions under Sections 406, 468, 471, 420, 120-B and 34 of IPC.

3.5. The defacto complainant has lodged the complaint with malafide intention due to some business motive and thereby, the defacto complainant has lodged a false complaint and the same has not been



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properly investigated by the investigation officer / 1st respondent. The trial Court also without considering that there is no prima facie material available to take cognizance and erroneously had taken cognizance. Therefore, the pending charge sheet is liable to be quashed. Moreover, the petitioners 3, 4 and 6 have preferred in CrI. O.P. (MD) No.17146 of 2021 to quash the FIR and the same was allowed. Thereafter, the 2nd respondent has preferred SLP in CrI. A. No.289 of 2024 and the same was allowed. Thereafter, the 1st respondent, on completion of investigation, filed a final report and the trial Court has taken cognizance. Therefore, the pending proceedings are abuse of process of law and the same is liable to be quashed.

3.6. The learned Senior counsel, in support of his contention, has relied upon the following judgments:

- (i) State of Haryana v. BhajanLal reported in 1992 Supp. 1 SCC 335.***
- (ii) Mohammed Wajid & another v. State of UP and others reported in 2023 Live Law (SC) 624.***
- (iii) A.M. Mohan v. State & another reported in 2024 SCC OnLine***



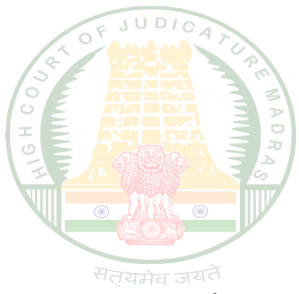
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SC 339.

(iv) Rikhab Biraniu 7 another v. State of UP & another reported in 2025 SCC OnLine SC 823.

4. The learned Government Advocate appearing for the 1st respondent would submit that the 2nd respondent is the Director of LCM Civil Engineering Company having office at Singapore and A1 was inducted as an 'Accountant System Manager' in the said company in the year 2007. A2 is the wife of A1. A3 is the father of A1. A4 is the sister-in-law of A1. A6 is the father-in-law of A1. A5 is the brother of A1. A1, during his tenure as 'Accountant System Manager' misappropriated Rs.3,50,00,000/- and transferred money from the account of the defacto complainant to the accounts of A1 to A6. Thereafter, all the accused entered into criminal conspiracy and purchased properties out of the alleged misappropriated funds. Therefore, the 2nd respondent lodged a complaint before the 1st respondent and the 1st respondent registered a case in Cr. No.18 of 2021 for the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC. Thereafter, the 1st respondent conducted



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investigation and filed the final report. As per the final report, there are prima facie materials available as against all the petitioners.

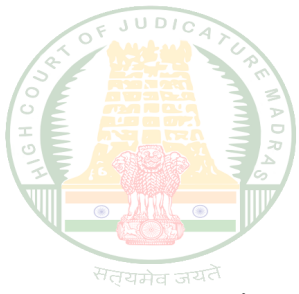
4.1. Already A3, A4 and A6 filed a petition in Crl. O.P. No.17146 of 2021 under Section 482 of Cr.P.C. to quash the proceedings and the same was allowed by this Court, against which, the 2nd respondent preferred an appeal before the Hon'ble Supreme Court and the Hon'ble Supreme Court allowed the appeal and thereafter, the 1st respondent police filed the final report. Moreover, the 2nd respondent also preferred a Criminal Revision case No.313 of 2021 as against the order passed by the trial Court in Crl. M.P. No.13230 of 2019 and the same was ***dismissed as 'infructuous'***. Thereafter, the 2nd respondent again filed a Crl. O.P. (MD) No.10060 of 2022 seeking direction to the 1st respondent police to file final report as early as possible and the same was allowed. Thereafter, the 1st respondent police filed the final report. As per the charge sheet, prima facie materials are available against these petitioners. Therefore, at this stage, the petitioners are not entitled to any relief. Therefore, this petition is liable to be dismissed.



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5. The learned counsel appearing for the 2nd respondent / defacto complainant would submit that the 2nd respondent is doing construction business by taking sub contract of metro train work orders at Singapore in the name and style of LCM Civil Engineering Company. A1 was appointed as 'Accountant System Manager' and he got married with A2. Both had settled at Singapore. A3 is the father of A1, A6 is the father of A2. A4 is the sister of A2. A5 is the brother of A1. The 2nd respondent empowered A1 with cheque signing authority and permitted A1 for carrying out online transactions as his employment functions. While so, in the year 2007, the 2nd respondent verified the accounts and came to know that A1 had illegally prepared the payment vouchers and misappropriated funds by way of cheque and online transactions. A1 had fraudulently transferred funds of the defacto complainant to the company of A2 namely AKM Engineering and Constructions PTE Limited and also A1 made subsequent transactions to his bank accounts in State Bank of India, Eriyur Branch, Sivagangai and Axis Bank at Chennai. Similarly, there were illegal transfers of the 2nd respondent's

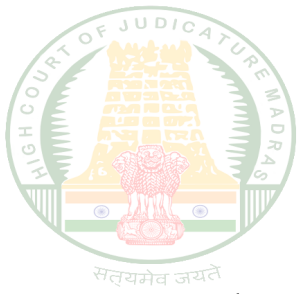


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misappropriated funds to A2's account in State Bank of India, Karaikudi Branch, Sivagangai District and to A3 and A4's account in Indian Bank, Nachiyarpuram Branch, Sivagangai District and also to the accounts of A5 and A6 in State Bank of India, Eriyur Branch, Sivagangai District. A total sum of Rs.3,50,00,000/- was misappropriated.

5.1. The 1st accused made 5 transactions on 11.04.2016 for a sum of Rs.2,36,919/-, 45,000/-, 6,33,000/-, 8,00,000/- and 1,00,000/- to his account. Similarly, he made transfer to A2's account for a sum of Rs.4 lakhs on 03.06.2014, Rs.2,75,000/- on 21.12.2015, Rs.5 lakhs on 11.02.2016, Rs.31,28,000/- on 11.04.2016 and Rs.1,75,000/- on 12.04.2016. A1 and A2 purchased properties to the tune of Rs. 61,17,919/- and also they purchased another property to the tune of Rs. 49,42,929/- and also they purchased property in the name of A4 for a sum of Rs.9,50,000/-. A3 to A6 have aided A1 and A2.

5.2. A2 is the Director of a company namely AKM Engineering and Constructions Pvt Ltd., and A1 is the Secretary of the Company.



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The amounts from LCM Civil Engineering (S) PTE. Ltd., for 4,94,069.25 dollars was transferred to the account of A2, from SRS Prettech, dollars 182,183.35 was transferred, from SRS Civil Engineering (S) PTE. Ltd., dollars 22,296 was transferred and from SRS construction and Engineering (S) PTE Ltd., dollars 4,446 was transferred to the account of A2's company. Therefore, the 2nd respondent lodged a complaint and based on the same, the 1st respondent registered a case in Cr. No.18 of 2021 for the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC. Thereafter, the 1st respondent conducted investigation and filed final report. As per the final report, there are prima facie materials available and prima facie case made out. Therefore, the trial Court has taken cognizance for the offences 406, 468, 471, 420, 120-B and 34 of IPC and the petition is liable to be dismissed.

5.3. The learned counsel appearing for the 2nd respondent, has relied upon the following judgments in support of his contention:

(i) Delhi Race Club (1940) Ltd., vs. State of U.P. reported on (2024) 10 SCC 690.



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(ii) Mariam Fasihuiddin v. State reported in 2024 SCC Online SC

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(iii) State (NCT of Delhi) v. Navjot Sandhu reported in (2005) 11 SCC 600.

(iv) Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra reported in AIR 2021 SC 191.

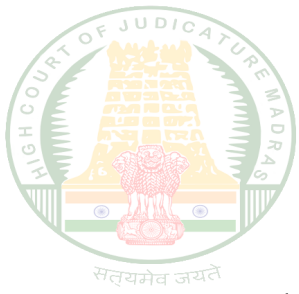
(v) Manik B. vs. Kadapala Sreyas Reddy & another reported in 2023 LiveLaw (SC) 642.

(vi) State of Haryana and others vs. Bhajan Lal and others reported in 1992 Supp (1) SCC 335.

(vii) Vinod Raghuvanshi vs. Ajay Arora and others reported in (2013) 10 SCC 581.

6. This Court heard both sides' and perused the entire materials available on record.

7. In this case, the allegations levelled against the petitioners as



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per the prosecution case are that the 1st petitioner / A1 was working as 'Accountant System Manager' in the defacto complainant / 2nd respondent's company namely LCM Civil Engineering Company at Singapore. The 2nd petitioner / A2 is the wife of A1 and Director of a company namely AKM Engineering and Constructions PTE. Limited, where A1 is the Secretary. A3 is the father of A1, A4 is the sister of A2, A5 is the brother of A1 and A6 is the father of A2 and father-in-law of A1. While A1 was working in the defacto complainant's company namely LCM Civil Engineering Company at Singapore, misappropriated the funds and transferred money to the accounts of A1 in State Bank of India, Eriyur Branch, Sivagangai District and A2's account in State Bank of India, Karaikudi Branch, Sivagangai District and A1 & A2 purchased properties in their names, by using the above said misappropriated funds. A1 also transferred money to the account of A5 and purchased properties in the names of A4 to A6. For these allegations, the 2nd respondent lodged a complaint before the 1st respondent police and they registered a case in Cr. No.18 of 2021 for the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC.



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8. The 1st respondent recorded statements of witnesses, collected documents and filed final report before the learned Judicial Magistrate-II, Sivagangai and the same was taken on file in C.C. No.744 of 2022. The prosecution agency have collected the account details of the petitioners / accused, but failed to collect the bank statements of the defacto complainant to ascertain as to whether the alleged money had been transferred from the account of the defacto complainant to the accounts of the accused.

9. As per the prosecution case, A1 transferred funds from the defacto complainant's account to the accounts of 1 and 2 accused as shown below:

Alleged transaction from the defacto complainant's account to A1's account at State Bank of India, Eriyur Branch, Sivagangai

Sl. No.	Date of alleged transaction	Alleged amount transferred (Rs.)
1.	11.04.2016	2,36,919/-
2.	11.04.2016	45,000/-
3.	11.04.2016	6,33,000/-
4.	11.04.2016	8,00,000/-
5.	11.04.2016	1,00,000/-

Alleged transaction from the defacto complainant's account to A2's account at State Bank of India, Karaikudi Branch, Sivagangai



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Sl. No.	Date of alleged transaction	Alleged amount transferred (Rs.)
1.	03.06.2014	4,00,000/-
2.	21.12.2015	2,75,000/-
3.	11.02.2016	5,00,000/-
4.	11.04.2016	31,28,000/-
5.	12.04.2016	1,75,000/-

While so, it is the duty of the investigation agency to collect the bank statements of the defacto complainant, which are the basic documents to substantiate the allegations levelled against the accused. But the prosecution miserably failed to collect the bank statements of the defacto complainant, whereas collected the statements of transactions between the accused. Though the petitioners have produced the documents to show that those transactions are between the bank accounts of the accused, those documents are not form part of the charge sheet and the same cannot be looked into at this stage.

10. It is well settled law that the prosecution has to establish the case as against the accused and to substantiate the charges, there should be some prima facie materials to constitute the offences. But here in this

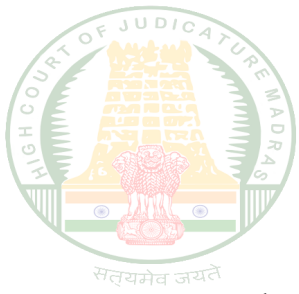


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case, the main allegation is that while the 1st accused was working as ‘Accountant’ in the defacto complainant’s company, he transferred the funds from the account of the defacto complainant to the account of the accused. Therefore, the main documents to show the alleged transactions have not been obtained by the prosecution agency during the investigation. When the prosecution case is specific to a particular date, in respect of particular transaction in a particular date from the particular account to the accused’s account, the prosecution has to produce those documents. Then only the Court can peruse that whether the amount was transferred as alleged by the prosecution or not. Here in this case, the prosecution has not obtained any such documents from the bank of the defacto complainant.

11. Moreover, even according to the prosecution, there are 5 more companies run by the defacto complainant. While so, from which account, the amount was transferred. There are no such particulars. Therefore, the very basis for the case has not been established through prima facie materials. The prosecution also produced the documents



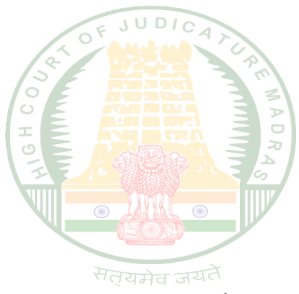
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such as statements of accounts of A1, A2 and A4, where there are no any entries from the account of the defacto complainant on the particular dates mentioned in the FIR and charge sheet. When the prosecution agency is able to obtain documents from the banks of accused, they failed to obtain documents from the bank of the defacto complainant. Therefore, the very basic documents are not available and without those documents, the Court cannot conduct trial. Even if the trial is conducted, without any materials to show that the money from the account of the defacto complainant was transferred to the account of the accused, it will be only futile exercise. Therefore, the prosecution failed to produce the material documents which are the very basis for the allegations levelled against the accused.

12. As far as the legal aspects are concerned, the accused have been charged for the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC.

13. As far as the offence under Section 406 of IPC is concerned,

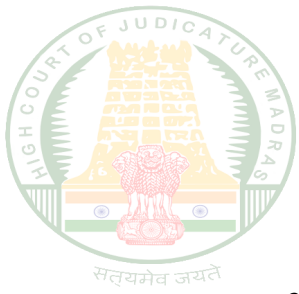


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there must be some entrustment with person for property or dominion over the property and that person entrusted has to dishonestly misappropriate or convert the property to his own use or dishonestly used or disposed of the property or willfully suffers any other person so to do in violation of any direction of law prescribing the method in which the trust is discharged or legal contract touching the discharge of trust. Whereas in the case on hand, the allegation is that A1 misappropriated funds by transferring the amounts to his account. There is no any material produced by the prosecution to show that from which account and how much amount was transferred to the account of the accused. Therefore, there are absolutely no materials to prove the prima facie case against the accused.

14. As far as the offence Section 420 of IPC is concerned, the essential ingredients are 'dishonest inducement of a person to deliver a property' and 'wrongful loss to the complainant and wrongful gain to the accused'. The transactions referred in the charge sheet are internal transfers within the petitioners' own accounts and no materials available to show that from the account of the defacto complainant, the funds were



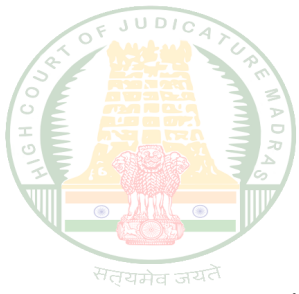
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transferred to the account of the accused.

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15. As far as the offences under Sections 468 and 471 are concerned, the essential ingredients to constitute the offence under Section 468 of IPC are 'forgery committed with the intention that the forged document shall be used for the purpose of cheating'. As far as 'forgery' is concerned, it is defined under Section 463 of IPC. In order to attract offence under Section 463 of IPC, the prosecution has to prove the forged document and firstly, it is to be established that which document has been forged. In the case on hand, the prosecution has not produced any forged document allegedly created by the petitioners / accused. There is no allegation that the petitioners / accused forged any document with intention to cheat the defacto complainant or any others. As per the FIR and charge sheet, no any identification about the specific document, which is alleged to have been forged.

16. As far as the offence under Section 471 of IPC is concerned, the essential elements of Section 471 of IPC are that 'the document in

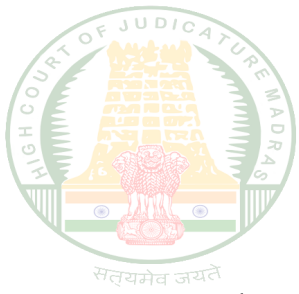


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question must be a forged document' and 'the accused used or attempted to use it as genuine'. There is no forged document produced or relied upon by the prosecution and no act of using a forged document has been attributed to any of the petitioners.

17. As far as the offence under Section 120-B of IPC is concerned, mere relationships among the accused do not establish conspiracy. There should be some material to show that there is an agreement to do an illegal act, but in this case, there is no any material to prove the elements of conspiracy. As far as Section 34 of IPC is concerned, there is no any material to prove the common intention among the accused and prior meeting of minds. Therefore, there is no any legally acceptable materials collected by the investigation officer to substantiate the allegations made against the petitioners / accused.

18. At this juncture, the learned Senior counsel appearing for the petitioner has relied upon the Hon'ble Supreme Court's judgment in ***State of Haryana v. BhajanLal reported in 1992 Supp. 1 SCC 335***,



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wherein, the Hon'ble Supreme Court issued guidelines in dealing with the quashment of FIR and Charge Sheet under Section 482 of Cr.P.C. One of the guidelines is that 'where the allegations in the FIR or the complaint, even if taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused'. In the case on hand, there are no records to show that the alleged amounts were transferred from the account of the defacto complainant to the account of the accused. The defacto complainant implicated all the family members of A1 without any materials and the 1st respondent also without any materials filed charge sheet against all the accused. Mere purchase of properties in the name of family members is not an offence. There are no specific allegations and no materials showing active participation or criminal intention on the part of the petitioners. Therefore, it is clear that the criminal proceedings are manifestly attended with malafide and amount to an abuse of process. Therefore, it covers one of the guidelines of *Bhajan Lal's case*, where a criminal proceeding is manifestly attended with malafide and / or where the proceeding is maliciously instituted with an ulterior motive for

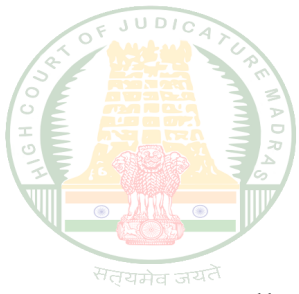


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wreaking vengeance, the same is liable to be quashed.

19. As far as ***Mohammed Wajid & another v. State of UP and others reported in 2023 Live Law (SC) 624, A.M. Mohan v. State & another reported in 2024 SCC OnLine SC 339 and Rikhab Biraniu 7 another v. State of UP & another reported in 2025 SCC OnLine SC 823*** are concerned, on a careful perusal of the said judgment, it is clear that the complainant would ensure that the averments made in the FIR / complaint are such that they disclose the necessary ingredients to constitute the alleged offence in frivolous or vexatious or instituted with the ulterior motive for wrecking vengeance, then in such circumstances, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines. The Court while exercising its jurisdiction under Section 482 of Cr.P.C. or Article 226 of the Constitution of India, need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation / registration of the case as

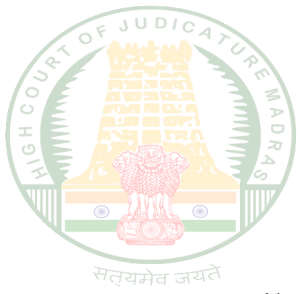


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well as the materials collected in the course of investigation.

20. It is also clear that ‘dishonest inducement’ is *sine qua non* to attract provisions under Sections 415 and 420 of IPC. If the charge sheet in the case is bereft of particulars and details required as mandated in terms of Section 173(2) of Cr.P.C. and the materials and the available evidences collected during the course of investigation, do not establish the ingredients to constitute the offences, then the Court cannot allow to conduct trial and further, the object and purpose of the police investigation is manifold and it includes the need to ensure transparent and free investigation to ascertain the facts, examine whether or not an offence is committed, identify the offender if an offence is committed, and to lay before the Court the evidence which has been collected, the truth and correctness of which is thereupon decided by the Court. The details set out in the charge sheet have a substantial impact on the efficacy of procedure at the subsequent stages. The charge sheet is integral to the process of taking cognizance, the issue of notice and framing of charge, being the only investigative document and evidence



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available to the Court till that stage. Substantiated reasons and grounds for an offence being made in the charge sheet are a key resource for a Magistrate to evaluate whether there are sufficient grounds for taking cognizance, initiating proceedings, and then issuing notice, framing of charges etc.,

21. In the case on hand, the investigation agency have not collected the very basic documents for the allegations levelled against the accused i.e., the bank statements of the defacto complainant to show that the amounts mentioned in the complaint were transferred from the account of the defacto complainant to the account of the accused. Whereas the bank statements of the accused show that those transactions were only the internal transactions made between the accounts of the accused. There are no material to show that the alleged amounts mentioned in the FIR and the charge sheet were transferred from the account of the defacto complainant to the account of the accused.



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22. The learned Senior counsel appearing for the 2nd respondent has argued that the accused transferred the amounts from the account of the defacto complainant to the account of A1 and thereby, he misappropriated the funds. In support of his contention, he has relied upon the judgment of Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd., vs. State of U.P. reported on (2024) 10 SCC 690.*** On a careful perusal of the above said judgment, it is clear that to attract Section 406 of IPC, there must be some entrustment with person for property or dominion over the property and that person entrusted has to dishonestly misappropriate or convert the property to his own use or dishonestly used or disposed of the property or willfully suffers any other person so to do in violation of any direction of law prescribing the method in which the trust is discharged or legal contract touching the discharge of trust. Whereas in this case, the prosecution failed to obtain bank statements of the defacto complainant. Though A1 was working as 'Accountant System Manager', there are no documents to show that he had misappropriated funds.



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23. Further, the learned Senior Counsel appearing for the 2nd respondent argued that A1 had fraudulently created payment vouchers and had approved it by himself to make illegal transfer of funds allocated for subcontract works, thereby there are ingredients to attract Sections 468 and 471 of IPC. In support of his contention, he has relied upon the Hon'ble Supreme Court's Judgment in ***Mariam Fasihuddin v. State reported in 2024 SCC Online SC 58***. On a careful perusal of the above said judgment, it is clear that, to establish the offense of 'forgery', the following two primary components need to be fulfilled.

- (i) that the accused has fabricated an instrument; and
- (ii) it was done with the intention that the forged document would be used for the purpose of cheating.

In this case, the prosecution failed to obtain the alleged created payment of vouchers and not even collected a single document and even according to the prosecution case, there is no any specific averments as about the particular document, which is alleged to have been forged.



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24..Further, on a careful perusal of the judgment of Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd., vs. State of U.P. reported on (2024) 10 SCC 690*** relied upon by the learned Senior Counsel appearing for the 2nd respondent, it is clear that to attract Section 420 of IPC, 'deception of any person, either by making a false or misleading representation or by other action or by omission and fraudulently or dishonestly inducing any person to deliver any property" are the main ingredients. In the case on hand, there are no such ingredients to constitute such offence.

25. Further, the learned Senior counsel appearing for the 2nd respondent has relied upon the judgment of Hon'ble Supreme Court in ***tate (NCT od Delhi) v. Navjot Sandhu reported in (2005) 11 SCC 600.*** On a careful perusal of the above said judgment, it will not be applicable for the present facts of the case, because, in this case, there are no prima facie materials available and the prosecution failed to collect the bank statements of the defacto complainant.

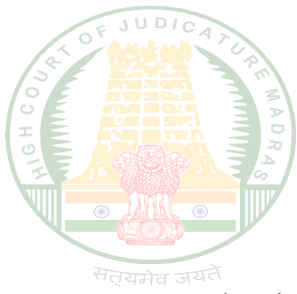


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26. The learned Senior counsel for the 2nd respondent has further relied upon the judgments of Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra reported in AIR 2021 SC 191, Manik B. vs. Kadapala Sreyas Reddy & another reported in 2023 LiveLaw (SC) 642, State of Haryana and others vs. Bhajan Lal and others reported in 1992 Supp (1) SCC 335 and Vinod Raghuvanshi vs. Ajay Arora and others reported in (2013) 10 SCC 581.*** On a careful perusal of the above said judgments, it is clear that the Hon'ble Supreme Court framed guidelines to quash the FIR and charge sheet and the High Court has to follow the said guidelines and while considering the case for quashing of the criminal proceedings, the Court should not 'kill a still born child' and appropriate prosecution should not be stifled unless there are compelling circumstances to do so.

27. In this case, there are no any materials even as per the FIR and charge sheet and with malafide intention, the prosecution has been launched. The prosecution failed to collect the main documents during



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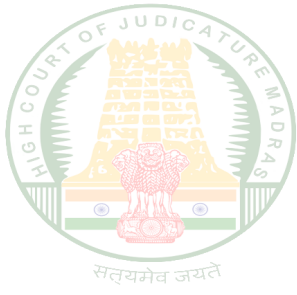
the investigation and even the trial cannot be conducted without the material documents, Therefore, the above said judgments are no way helpful to decide the case in favour of the 2nd respondent.

28. Therefore, in view of the above said discussions, this Court is of the opinion that there are no prima facie materials to attract the offences under Sections 406, 468, 471, 420, 120-B and 34 of IPC as against these petitioners and the pending proceedings as against these petitioners are liable to be quashed.

29. Accordingly, the Criminal Original petition is allowed and the pending proceedings against these petitioners in C.C. No.744 of 2022 is quashed. No costs. Consequently, the connected miscellaneous petition is closed.

24.07.2025

index: Yes/No
Internet: Yes/No
Speaking/Non Speaking order
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P.DHANABAL,J

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To

1. The Judicial Magistrate No.II, Sivagangai.

2. The Inspector of Police,
District Crime Branch,
Sivagangai.

Pre-delivery Judgment in
CRL O.P.(MD) No.21347 of 2024

24.07.2025