



CRL OP(MD). No.16267 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 20/11/2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.16267 of 2025

and

CrI.M.P(MD) Nos.13282 and 13283 of 2025

1. Gubendran

2. Rajeswari

... Petitioners

Vs

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Natham Police Station,
Dindigul District.
(In Crime No. 586/2010).

2. Chinnakaruppan

... Respondents

PRAYER :- This Criminal Original Petition is filed under Section 528 BNSS, to call for the records pertaining to the impugned charge sheet in C.C.No.111 of 2025 on the file of the learned Judicial Magistrate, Natham and quash the same as illegal.

For Petitioners : Mr.S.Kishore Kumar,

For R1 : Mr.R.Meenakshi Sundaram,



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Additional Public Prosecutor

ORDER

The petitioners seek to quash the impugned charge sheet in C.C.No.111 of 2025 on the file of the learned Judicial Magistrate, Natham, which was filed for the offences under Sections 406 and 420 of IPC.

2.The gist of the allegation in the impugned charge sheet is that the first petitioner is the son-in-law of the defacto complainant and the second petitioner is his daughter; that the petitioners married each other pursuant to the love affair; that they had been living separately since 1998; that in the year 2006, the petitioners reconciled their differences with the second respondent; that the second respondent thereafter entrusted them with the job of quarrying white stones and supplying the same to another company; that the first petitioner initially rendered accounts but later became greedy and misappropriated the money earned from their business and that the second petitioner(A2) using the misappropriated amount purchased a lorry in her name.



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3.The learned counsel for the petitioners would submit that the dispute between the petitioners and the defacto complainant pertains to the rendition of accounts; that the petitioners are closely related to the defacto complainant as stated earlier; that the offences under Sections 406 and 420 of IPC are not attracted; that in any case, those two offences would not go together and that a civil dispute has been projected as a case of cheating and breach of trust.

4.The learned Additional Public Prosecutor appearing for the respondent police justified the registration of the FIR and the filing of final report and submitted that the question as to whether the petitioners had deceived the defacto complainant or committed the offence of criminal breach of trust has to be adjudicated only before the trial Court and therefore, the impugned charge sheet cannot be quashed.

5.The notice sent to the defacto complainant was returned with an endorsement 'unserved'.



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6. The learned counsel for the petitioners produced a copy of the death certificate of the second respondent. The learned Additional Public Prosecutor also confirmed that the second respondent died on 01.09.2011.

7.As stated earlier, the first petitioner is the son-in-law of the defacto complainant and the second petitioner is his daughter. The defacto complainant was doing the business of quarrying white stones and supplying the same to various companies. In the year 2006, he had entrusted the said job to the first petitioner and according to the defacto complainant, the first petitioner initially shared the profits but thereafter failed to render accounts and misappropriated the money. The allegations do not suggest any deception at the inception. It is well settled that the offence of criminal breach of trust and cheating would not go together. The Hon'ble Supreme Court in ***Delhi Race Club (1940) Limited and others Vs State of Uttar Pradesh and another***, reported in (2024) 10 SCC 690 had held as follows:-



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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.

8. In this case, there is no allegation that the petitioners had deceived the defacto complainant. The contract was entered into between close relatives and even according to the defacto complainant, he did not hand over the business to the first petitioner pursuant to any deception or false representation. The allegations, at best, suggest that there is a breach of promise and the petitioners failed to keep up their promise. Even in the final report and in the FIR, the only allegation is that the first petitioner did not render proper accounts and that the second petitioner, who was the defacto complainant's daughter, purchased a lorry from the amount earned by the first petitioner. In the absence of any allegations attracting the ingredients of cheating, the petitioners cannot be



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prosecuted for the offence of cheating. Similarly, there is no entrustment. Admittedly, this is a business transaction and according to the defacto complainant, the accounts were not rendered, which cannot be the subject matter of prosecution for the offence of criminal breach of trust.

9. That apart, the alleged offences is said to have taken place in the year 2010. Though the FIR was registered in the year 2010, the respondent police have not filed the final report till 2025. In such circumstances, this Court is of the view that no useful purpose would be served by keeping the impugned FIR pending. Accordingly, this Court is inclined to quash the impugned charge sheet.

10. In view of the above, this Criminal Original Petition is allowed and the impugned charge sheet in C.C.No.111 of 2025 on the file of the learned Judicial Magistrate, Natham, is quashed. Consequently, connected miscellaneous petitions are closed.

20.11.2025



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NCC :Yes/No

Index :Yes/No

Internet :Yes/No

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TO

1.The Judicial Magistrate, Natham.

2.The Inspector of Police,
Natham Police Station,
Dindigul District.

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



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SUNDER MOHAN,J

cp

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