



Crl.OP(MD)No.22531 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.22531 of 2025

B.Jayanthi

... Petitioner

Vs.

1. The State of Tamilnadu,
Rep By., The Superintendent of Police,
Dindigul District.

2.The Deputy Superintendent of Police,
Dindigul West,
Dindigul District.

3.The Inspector of Police,
Kanniwadi Police Station,
Dindigul District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the 1st and 2nd respondents to instruct the 3rd respondent not to interfere the civil dispute against the petitioner and not colluded with the petitioners husband based on the complaint of the petitioner dated on 02.12.2025

For Petitioner : Mr.S.Sivaprakash

For Respondents : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)



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ORDER

Prologue:

This petition portrays a classic situation where a minor's property, purchased from the funds mobilised by the mother, is clandestinely sold away by the father acting as a *de facto* guardian, without legal competence and in total violation of statutory safeguards protecting the estate of minors.

2. The petitioner alleges that her husband has not only alienated the minor's property through forged documents, but has also attempted to dispossess her and her son with the support of third parties, which resulted in repeated attempts at trespass and threats. The petitioner's grievances, despite approaching the police, remained unaddressed, compelling her to seek the intervention of this Court.

Facts of the Case:

3. The petitioner and her husband, Bhuvanendran, were married on 13.09.2007 and a son, Lokesh, was born on 31.08.2008. The petitioner asserts that she sold three sovereigns of gold and



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availed a private loan for the purpose of purchasing a property in Survey No.227/2, Thethupatti Village, which was registered in the name of her minor son under Document No.1455/2023 before the Kanniwadi Sub-Registrar, with the husband shown only as guardian.

4. According to the petitioner, the original title deed is in her custody. However, her husband, allegedly indulging in bad habits and abandoning the family, fabricated a fake document and executed a sale deed in favour of one Pandiyarajan, who subsequently executed another alienation in favour of a third party, all behind the back of the petitioner and the minor.

5. On 21.11.2025, the said Pandiyarajan and ten others allegedly trespassed and attempted to take possession of the property but were thwarted by the petitioner with the help of her husband's brother. The petitioner made repeated complaints to the third respondent police, but the grievance was closed by advising the parties to settle the matter through Court. The petitioner contends that the police are siding with her husband and that despite a clear cognisable offence having occurred, no FIR has been registered.



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Submissions:

6. The learned counsel for the petitioner submits that the husband had no authority under law to alienate the property of a minor. The alienation was made through a forged document, while the original deed remained with the petitioner. The acts constitute cognisable offences under Sections 316 , 318, 322, 329 , 336 BNS, 2023 and other relevant penal provisions. Despite the complaint, no FIR was registered, amounting to non-compliance with the principles laid down in ***Lalita Kumari v. Govt. of U.P.***¹.

7. The learned Government Advocate (Criminal Side), Mr.M.Shakthi Kumar submits that the police only called the parties for an enquiry based on the petitioner's complaint. No collusion existed between the police and the petitioner's husband. The complaint was closed by advising the parties to approach the civil Court. If this Court issues a direction, the police will abide by the same.

¹ (2014) 2 SCC 1



Analysis:

8. Section 11 of the Hindu Minority and Guardianship Act, 1956, categorically prohibits a *de facto* guardian from dealing with the minor's property:

“After the commencement of this Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the *de facto* guardian of the minor.”

9. The husband, admittedly not the natural guardian for purposes of alienating property without Court sanction, has sold the minor's property without permission of the Court, without necessity or benefit to the minor, and by allegedly fabricating a document. The statutory bar is absolute.

10. The allegations disclose commission of cognisable offences under the Bharatiya Nyaya Sanhita, 2023, including Section 316 – Criminal Breach of Trust, Section 318 – Cheating, Section 329 – Criminal Trespass, Section 336- Forgery, Section 61(2) – Criminal conspiracy, if multiple persons were involved.



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11. When a cognisable offence is made out, the police cannot refuse registration of an FIR. The Supreme Court in **Lalita Kumari v. Govt. of U.P.**² has held that FIR registration is mandatory when information discloses the commission of a cognisable offence. The closure of the complaint on the ground that a civil dispute exists is legally misconceived. The existence of a civil dispute is not a bar to criminal law when the ingredients of the offence are made out.

12. The petitioner's husband's act of alienating minor's property through forged documents strikes at the root of both civil and criminal jurisprudence and must be subjected to a criminal investigation.

13. Accordingly this Court finds that,

(a) the complaint discloses *prima facie* cognisable offences under Sections 316 , 318, 322, 329 , 336 ,61(2) BNS,2023 and other relevant penal sections;

(b) refusal to register FIR violates the mandate under **Lalita Kumari v. Govt. of U.P.**³

2(2014) 2 SCC 1

3 *supra* 1



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(c) the police cannot direct litigants to “settle civilly” when criminality is disclosed;

(d) the rights of a minor require heightened judicial protection;

(e) a proper investigation is necessary, including recovery of forged documents, examination of Sub-Registrar’s records, and verification of the chain of transactions.

14. In view of the above, the third respondent police are directed:

(i) to register a First Information Report based on the petitioner’s complaint dated 02.12.2025, for offences under Sections 61(2), 316 , 318, 322, 329 , 336 BNS,2023 and other appropriate provisions, as against the petitioner’s husband Buvanendran and all other persons involved;

(ii) to investigate the matter in accordance with law and complete the investigation expeditiously;

(iii) not to interfere with the petitioner’s possession or civil rights over the property except in accordance with due process; and



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(iv) not to harass the petitioner during the course of enquiry or investigation.

15. Accordingly, this Criminal Original Petition is allowed. No costs.

10.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Superintendent of Police,
Dindigul District.
- 2.The Deputy Superintendent of Police,
Dindigul West,
Dindigul District.
- 3.The Inspector of Police,
Kanniwadi Police Station,
Dindigul District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Sml

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