



Crl.O.P(MD).No.22474 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.01.2025

CORAM:

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

Crl.O.P(MD).No.22474 of 2024

and

Crl.M.P(MD)No.14028 of 2024

1. Arun Saravanan
2. Suguna

...Petitioners

Vs

1. The Inspector of Police
Muneerpallam Police Station
Palayamkottai
Tirunelveli District

2. Mydeen Pitchai

...Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BSNSS to call for the records relating to the proceedings of the FIR in Crime No. 466 of 2024 dt. 24.10.2024 on the file of the 1st respondent and quash the same as non-application of mind by allowing this Criminal Original Petition.

For Petitioners
For Respondent
No.1

: Mr.Mr.Ananth C.Rajesh
: Mr.K.Sanjai Gandhi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No. 466 of 2024 on the file of the first respondent police



CrI.O.P(MD).No.22474 of 2024

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2. The contention of the petitioners is that the first petitioner is employed in BPO Integra India Private Limited on 25.07.2022 in Coimbatore and he was working there and prior to that he was working in Coimbatore in other companies. The second petitioner is the wife of the first petitioner and she was appointed as lecturer in Government Engineering College at Coimbatore. The second accused is running a rice mill in the name of SSS rice mill at Alangulam, Tenkasi District. The second accused had some business transaction with the defacto complainant and there was some dispute between them in the payment for which the petitioners have been falsely implicated in this case. According to the petitioners, earlier there was a complaint and the police had called them for enquiry and during the enquiry the second accused gave an undertaking letter stating that he is responsible for the entire transactions and he will repay the balance amount of Rs.3.76 lakhs , recording the same the complaint was closed. Since the amount was not paid by the second accused the defacto complainant had lodged a complaint and it was not entertained . Therefore he filed a petition under Section 156(3) before the learned Magistrate and the learned Magistrate finding it to be a commercial transaction dismissed the same. Against which the defacto complainant has filed a revision before the Sessions Court, Tirunelveli and the Sessions Court had allowed the same



Crl.O.P(MD).No.22474 of 2024

and thereafter the First Information Report came to be registered. According to the First Information Report on 24.10.2024 the offences are under IPC. On 01.07.2024 the new act of BNS has replaced the IPC. It would clearly show that it is totally non application of mind, hence sought for quashing of the First Information Report.

3. The learned Additional Public Prosecutor submitted that in this case the petitioners along with Arunachalam had been running the rice mill and they have received paddy from the defacto complainant on the promise that the amount would be repaid and during the business transaction he had cheated the defacto complainant to the tune of Rs.23 lakhs. Later he had paid Rs.19 lakhs and gave an undertaking that balance amount would be paid very soon, but the same has not been paid, hence the complaint has been lodged. The case has been registered under Section 156(3) of Cr.P.C.

4. All the points raised by the petitioners which has to be decided later. The contention of the petitioners would be decided during investigation. If finding that the petitioners had no role in the transaction at the time of filing final report their names will be deleted. The statement so far collected would clearly states the active role played by them. As regards the contention of the petitioners that BNS had replaced IPC on the date of registration of the



Crl.O.P(MD).No.22474 of 2024

First Information Report confirms the malafide and motivated complaint.

The offence was committed during the period 01.03.2021 to 09.06.2022 and the offences are committed under IPC hence in registration of the First Information Report there is safeguarding clause in BNS, in view of the same, the contention of the petitioners that the petitioners cannot be prosecuted under IPC is not proper.

5. Taking into consideration the fact the case is under the stage of examination of witnesses and at this stage this case cannot be entertained. Further other pointed raised by the petitioner have to be gone into full fledged trial and the mixed question of facts cannot be decided under Section 482 of Cr.P.C, hence this Court is not inclined to quash the proceedings. Accordingly the Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. Further the petitioners are directed to appear before the respondent police and produce the materials to substantiate their contention and the respondent police shall look into the same and take appropriate decision with regard to the merits of the case.

31.01.2025

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

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CrI.O.P(MD).No.22474 of 2024

To
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1. The Inspector of Police
Muneerpallam Police Station
Palayamkottai
Tirunelveli District
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P(MD).No.22474 of 2024

M.NIRMAL KUMAR,J.

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Crl.O.P(MD).No.22474 of 2024

31.01.2025