



WEB COPY

CRL OP No. 7943 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 7943 of 2026

and

CrI.M.P.No.5638 of 2026

K.Jayakumar
S/o.M.Kannan,
C/o.K.Prakash,
No.5/104, Sidco Nagar,
Villivakkam, Chennai-49
Currently Residing No.2/561,
Phase I, TNHB,
Manali New Town,
Chennai-600 103.

..Petitioner(s)

Vs

1. State rep.by its,
Inspector of Police,
W-26, AWPS, Ashok Nagar,
Chennai-600 083.
Cr.No.12/2018.
2. D.Kalaivani
D/o.M.Dayalan,
No.21/8, Bridhavan Street,
Tamilnadu Slum Clearance Board,
West Mambalam, Chennai-600 033.
Currently Residing No.29/16, F2,
Vignesh Villa Apt, Sampangi Street,
West Mambalam, Chennai-600 033.

..Respondent(s)

PRAYER: The Criminal Original Petition filed under Section 528 of BNSS, 2023, praying to call for the records pertaining to Crime No.12 of 2018 on the file of W-26, All Women Police Station, Ashok Nagar, Chennai and the consequential proceedings culminating in the judgment of conviction dated



03.08.2022 in C.C.No.12347 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, and declare that the said proceedings, including the conviction judgment dated 03.08.2022, stand vitiated as nullities in the eye of law on account of fraud, fabrication of material evidence and abuse of process of Court, in exercise of the inherent powers under Section 482 Cr.P.C. read with Article 226 of the Constitution of India.

For Petitioner(s): Mr.K.Jayakumar (Party-in-Person)

For Respondent-1: Mr.Leonard Arul Joseph Selvam,
Additional Public Prosecutor

ORDER

Today, the case is listed today under the caption 'For Bing Mentioned' at the instance of the petitioner (Party-in-Person).

2. The petitioner seeks clarification in paragraph Nos.3, 4 and 5 of the order passed in Crl.O.P.No.7943 of 2026 dated 30.03.2026. Considering the submission of the petitioner, paragraph Nos.3, 4 and 5 of the order dated 30.03.2026 shall be replaced as follows:

*“3.In support of his contention, the petitioner relied upon the judgment of the Hon’ble Apex Court in the case of **A.V.Papayya Sastry and Others vs. Government of Andhra Pradesh and Others** reported in (2007) 4 SCC 221 for the point that it is settled proposition of Law that a judgment, decree or order obtained by playing fraud on the Court, Tribunal or Authority is a nullity and non est in the eye of law. Such a judgment, decree or order by the first Court or by the final Court has to be treated as nullity by every Court, superior or inferior.*



It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings.

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4.The primary contention of the petitioner is that fraud has been played by the defacto complainant, her family members and the respondent police and the trial Court not considered the same and convicted the petitioner. The petitioner submits DNA report is obtained by fraud. Even initiation of case itself is questionable and the same to be quashed.

5.Considering the submissions made and on perusal of the materials, it is seen that the petitioner was tried by the trial Court and during trial, on the side of the prosecution, PW1 to PW8 examined and Exs.P1 to P6 marked. PW1 is the defacto complainant/estranged wife of the petitioner, PW2 and PW4 are the mother and father of defacto complainant, PW8 is the Sub Inspector of Police and others are relatives. Ex.P1 is the DNA Report. The petitioner also marked 6 documents as Exs.D1 to D6. The contention of the petitioner have not been considered by the trial Court and the trial Court convicted the petitioner, against which, the petitioner filed an appeal. The appeal is nothing but an extension of trial and the Lower Appellate Court can very well look into the contention of the petitioner and also independently consider the evidence and materials produced before the trial Court and if required, can also take additional evidence. The contention of the petitioner can be considered by the Lower Appellate Court based on the materials available before it. The citation referred by the petitioner would not be applicable to the facts of the present case. If the petitioner is able to prove the fraud, he can very well get the benefit of the same.



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3. Registry is directed to carry out the above corrections in the order dated 30.03.2026 and issue a fresh copy of the order dated 30.03.2026.

4. The issue is clarified accordingly.

21-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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and
Crl.M.P.No.5638 of 2026**



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THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

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and

CRL MP No.5638 of 2026

K.Jayakumar,
S/o.M.Kannan, C/o.K.Prakash,
No.5/104, Sidco Nagar, Villivakkam,
Chennai – 49.
Currently Residing:
No.2/561, Phase I, TNHB,
Manali New Town,
Chennai – 600 103.

Petitioner

Vs

1.State Rep by its
Inspector of Police, W-26,
AWPS, Ashok Nagar,
Chennai – 600 083.
(Crime No.12/2018)

2.D.Kalaivani,
D/o.M.Dayalan,
No.21/8, Brindhavan Street,
Tamil Nadu Slum Clearance Board,
West Mambalam,
Chennai – 600 033.

Respondents

PRAYER: The Criminal Original Petition filed under Section 528 of BNSS,



2023, praying to call for the records pertaining to Crime No.12 of 2018 on the file of W-26, All Women Police Station, Ashok Nagar, Chennai and the consequential proceedings culminating in the judgment of conviction dated 03.08.2022 in C.C.No.12347 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai, and declare that the said proceedings, including the conviction judgment dated 03.08.2022, stand vitiated as nullities in the eye of law on account of fraud, fabrication of material evidence and abuse of process of Court, in exercise of the inherent powers under Section 482 Cr.P.C. read with Article 226 of the Constitution of India.

For Petitioner : Mr.K.Jayakumar
Party-in-Person

For Respondent-1: Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor

ORDER

The petitioner, party-in-person, has filed this petition seeking to quash the judgment of conviction in C.C.No.12347 of 2018 on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai and declare that the said conviction stands vitiated as nullity in the eye of law on account of fraud, fabrication of material evidence and abuse of process of Court.

2.The contention of the petitioner is that a case was registered against the petitioner in Crime No.12 of 2018 by All Women Police Station, Ashok



Nagar, Chennai for offence under Section 498(A) of I.P.C. without conducting any preliminary enquiry, in clear violation of the guidelines issued by the DGP dated 29.07.2008. From the inception, the prosecution case has been proceeded on alleged DNA report, which was projected as conclusive scientific evidence against the petitioner, failing to look into remaining oral and documentary evidence on record. Further the fraud played by the *defacto* complainant and her family members not considered by the trial Court. During trial, the *defacto* complainant was examined and cross-examined in detail and the discrepancies and contradictions were brought in the evidence of witnesses PW2 and PW4, the mother and father of the *defacto* complainant. But without considering all these aspects, the trial Court convicted the petitioner. Aggrieved against his conviction, the petitioner preferred an appeal in Crl.A.No.345 of 2022, which is pending on the file of IV Additional City Civil Court, Chennai. In view of the above fraud committed by the *defacto* complainant, her family members and the respondent police, who had also acted in a collusive nature, the petitioner had filed this petition.

3.In support of his contention, the petitioner relied upon the judgment of the Hon'ble High Court of Andhra Pradesh in the case of ***A.V.Papayya Sastry and Others vs. Government of Andhra Pradesh and Others*** in Appeal (Civil) No.5097-5099 of 2004 for the point that it is settled proposition of Law



that a judgment, decree or order obtained by playing fraud on the Court,

Tribunal or Authority is a nullity and *non est* in the eye of law. Such a judgment, decree or order by the first Court or by the final Court has to be treated as nullity by every Court, superior or inferior. It can be challenged in any Court, at any time, in appeal, revision, writ or even in collateral proceedings.

4.The primary contention of the petitioner is that fraud has been played by the *defacto* complainant, her family members and the respondent police and the trial Court not considered the same and convicted the petitioner. The petitioner exposes DNA report is obtained by fraud. Even initiation of case itself is questionable and the same to be quashed.

5.Considering the submissions made and on perusal of the materials, it is seen that the petitioner was tried by the trial Court and during trial, on the side of the prosecution, PW1 to PW8 examined and Exs.P1 to P6 marked. PW1 is the defacto complainant/estranged wife of the petitioner. PW2 and PW3 are the mother-in-law and father-in-law, PW8 is the Sub Inspector of Police and others are relatives. Ex.P1 is the DNA Report. The petitioner also marked 6 documents as Exs.D1 to D6. The contention of the petitioner have been considered by the trial Court and the trial Court convicted the petitioner, against which, the



petitioner filed an appeal. The appeal is nothing but an extension of trial and the Lower Appellate Court can very well look into the contention of the petitioner and also independently consider the evidence and materials produced before the trial Court and if required, can also take additional evidence. The contention of the petitioner can be considered by the Lower Appellate Court based on the materials available before it. The citation referred by the petitioner would not be applicable to the facts of the present case. If the petitioner is able to prove the fraud, he can very well get the benefit of the same.

6.At this stage, the petitioner submits that the petitioner is already pursuing the appeal and he argued the case twice and also filed written submissions. The Lower Appellate Court has been adjourning the case without disposing the appeal. In view of the same, the Lower Appellate Court is directed to follow the procedure and to complete the appeal preferably within a period of one month from the date of receipt of a copy of this order.

7.With the above directions, the Criminal Original Petition stands disposed of. Consequently, the connected Criminal Miscellaneous Petition is closed.



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Index : Yes/No

Speaking order/Non-speaking order

Neutral citation : Yes/No

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M.NIRMAL KUMAR, J.

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To

- 1.The IV Additional Judge,
City Civil Court, Chennai.
- 2.The XVII Metropolitan Magistrate,
Saidapet, Chennai.
- 3.The Inspector of Police,
W-26, AWPS, Ashok Nagar,
Chennai – 600 083.
- 4.The Public Prosecutor
High Court, Madras.

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and
CRL MP No.5638 of 2026**

30.03.2026