



WEB COPY

CRL OP No. 2382 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRL OP No. 2382 of 2026 and Crl.M.P.No.1592 of 2026

Fernando

..Petitioner

Vs

1. The State, Represented by
Inspector of Police,
J7, Velachery Police Station,
Chennai - 600 042.
2. The Special Tahsildar (Land Administration)
Velachery Taluk
Greater Chennai Corporation,
Adyar, Chennai – 600 028.
3. Samikannu.K

..Respondents

Prayer: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crime No.84 of 2024, pending on the file of first respondent - Inspector of Police, Velachery Police Station, Chennai and quash the same.

For petitioner : Mr.D.Ferdinand

For respondent(s): Mr.K.M.D.Muhilan,
Additional Public Prosecutor For R1

No appearance for RR2 & 3

ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.84 of 2024, pending on the file of the first respondent police.



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2. A vignette of the facts leading to the filing of this case is as follows:

2.1 The Special Tahsildar (Land Administration), Velachery Taluk, Greater Chennai Corporation, Adyar, Chennai (second respondent herein) gave a complaint on 10.03.2024 stating that the land in Survey No.317/1A measuring 13 acres 76 square metres belongs to the Chennai Corporation and that they were taking steps to construct a community hall in that land.

2.2 While so, on 10.03.2024, around 10.45 a.m., a JCB vehicle driver trespassed into the said land along with his JCB vehicle bearing Registration No.TN-21-AX-1153 and caused damage to the barbed fencing valued at Rs.78,525/-. Therefore, the second respondent requested the first respondent police to take action against the encroacher.

2.3 Based on the complaint given by the second respondent, a case in Crime No.84 of 2024 was registered for the offences under Sections 447 and 353 of IPC and Section 3 of the TNPPDL Act.



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2.4 Thereagainst, this criminal original petition has been filed.

3. The learned counsel appearing for the petitioner made the following submissions:

3.1 The petitioner owns a land adjacent to the land in Survey No.317/1A which belongs to the Chennai Corporation and he had engaged the services of a JCB vehicle to clean up his land. At that time, the driver of the JCB vehicle, without knowing the actual place, caused damage to the barbed wire fencing valued at Rs.78,525/-. Other than the fact that the petitioner is the owner of the adjacent land, the petitioner has not committed any offence. Further, the petitioner was not present at the scene of occurrence. However, based on the confession of the driver of the JCB vehicle, the petitioner was arrested and remanded to judicial custody.

3.2 Though there was no specific allegation as against the petitioner, the alleged loss caused to the de facto complainant was assessed at Rs.78,525/- and the petitioner, at



the time of grant of bail *vide* order dated 19.03.2024 in CrI.M.P.

No.15711 of 2024 in J7 Cr.No.84 of 2024 by the Chief Metropolitan Magistrate, Egmore, had deposited a sum of Rs.50,000/- to the credit of the crime number without admitting to the allegations.

3.3 The petitioner is an octogenarian and he has also taken a demand draft dated 19.02.2026 bearing no.016637 drawn in favour of the Chief Metropolitan Magistrate, Egmore, Chennai, for the balance amount of Rs.28,525/-, which was not accepted.

3.4 When there is no other material other than the confession of the driver of the JCB vehicle and when the petitioner was not present at the scene of occurrence, the alleged offences cannot be made out against the petitioner and hence, no useful purpose would be served in continuing with the criminal proceedings and accordingly, the impugned FIR is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that on 10.03.2024, when the second respondent was



taking steps to construct a community hall in the land belonging to the Corporation, a driver of a JCB vehicle trespassed into the said land and caused damage to the barbed wire fencing and attempted to encroach on the said land; further, the driver of the JCB vehicle prevented the officials from discharging their duty and hence, on the complaint given by the second respondent, the aforesaid case was registered; based on the confession recorded from the driver of the JCB vehicle that the owner of the adjacent land (petitioner) had engaged his services, the petitioner was arrayed as an accused in this case. However, the learned Additional Public Prosecutor submitted, in all fairness, that the petitioner was not present at the place of occurrence. He further submitted that the loss caused to the Corporation works out to Rs.78,525/- and that the investigation is pending.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the first respondent and perused the materials available on record.

6. That the land for which barbed wire fencing was made belongs to the Corporation, its adjacent land belongs to the petitioner who is an octogenarian, the petitioner engaged the driver of the JCB vehicle to clean his land, the said driver caused damage to the barbed wire fencing, the petitioner was not there at the place of occurrence, the petitioner has been implicated solely on the basis of the confession of the driver of the JCB vehicle, deposit of



a sum of Rs.50,000/- by the petitioner to the credit of the crime number, the petitioner taking a demand draft for the balance sum of Rs.28,525/- are not in dispute.

7. When admittedly the petitioner was not at the scene of occurrence, the offence under Section 353 IPC cannot be made out against him. That apart, when the petitioner had already deposited a sum of Rs.50,000/- to the credit of the crime number and had also taken a demand draft for the balance amount as stated above to make good the loss suffered by the Corporation, this Court is of the opinion that no useful purpose would be served by allowing the case in Cr.No.84 of 2024 to continue as against the petitioner and also the driver of the JCB vehicle.

8. Accordingly, the case in Crime No.84 of 2024 stands quashed in its entirety. The learned Chief Metropolitan Magistrate, Egmore, Chennai, is directed to accept the demand draft for Rs.28,525/- from the petitioner and also disburse the entire amount in the credit of the Crime No.84 of 2024 to the Greater Chennai Corporation on the petition filed by the Special Tahsildar (Land Administration), Greater Chennai Corporation.



9. In fine, this criminal original petition stands allowed.

Consequently, the connected miscellaneous petition is closed.

23-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

srm/cad



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A.D.JAGADISH CHANDIRA, J.

srm/cad

To

1. The Chief Metropolitan Magistrate,
Egmore,
Chennai.
2. The Inspector of Police,
J7, Velachery Police Station,
Chennai - 600 042.
3. The Special Tahsildar (Land Administration)
Velachery Taluk, Greater Chennai Corporation,
Adyar, Chennai - 600028.
4. The Public Prosecutor,
High Court of Madras.

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