



Crl.O.P.No.5394 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5394 of 2023
and Crl.M.P.Nos.3385 & 3387 of 2023

Selvaraj
S/o.Palanisamy Gounder,
No.9, Rajkanna Garden,
Nehru Nagar,
Kalapatti Post,
Coimbatore – 48.

..Petitioner(s)

Vs

1. The State By
The Inspector of Police,
District Crime Branch,
Tiruppur District,
(Crime No.17/2014)

2. Muruges,
S/o.Duraisamy,
No.2/73, K.Ayyampalayam,
Palladam,
Tiruppur District.

..Respondent(s)

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the C.C.No.313 of 2022 on the file of the Judicial Magistrate Special Court for Land Grabbing Cases, Tiruppur and quash the same.



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For Petitioner(s):

Mr.B.Kumarasamy

For Respondent(s):

Mr.L.Baskaran

Government Advocate (Crl. Side) for R1

Mr.S.Nagarajan for R2

ORDER

This petition has been filed to quash the proceedings in C.C.No.313 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Tiruppur, thereby taken cognizance for the offences punishable under Sections 120B, 467, 468, 471, 420 of IPC & 82(d) of the Registration Act, 1908 as against the petitioner.

2. The case of the prosecution is that originally the land to an extent of 13.83 acres comprised in S.F.Nos.503/6, 506/1, 518/4 & 518/5 situated at Narayanapuram Village, Palladam, Tiruppur District belongs to one Palanisamy Gounder and he purchased the subject property from one Arunachala Chettiar vide registered document No.3050 of 1959 dated 16.07.1959. The said Palanisamy Gounder was having two wives namely, Parathal and Rasammal. The first wife had four children namely, Subbathal, Valliammal, Subramani & Chinnasamy and the second wife had also four children namely Rukmani, Selvi, Amirthavalli & Selvaraj. The said Subramani

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born through the first wife had two wives namely Vijaya and Vasanthi. The first wife Vijaya executed a release-cum-divorce deed dated 15.04.1980 by which, she will not claim ownership over any property that belongs to her husband Subramani and had also given consent for his second marriage. The said document was registered in document No.8 of 1980.

3. Thereafter, on 25.09.1990, there was a partition between the children of Palanisamy Gounder born through his two wives vide registered document No.2690 of 1990. On the very same day, the female children born through the two wives had executed a release deed in favour of their brothers under document No.81 of 1990. On 03.01.1991, the said Subramani executed a Will in favour of his second wife Vasanthi in respect of his share vide document No.2 of 1991 and died on 18.02.1991. On 15.03.2007, the said Vasanthi executed a Power of Attorney in favour of one Duraisamy vide document No.525 of 2007. On 13.08.2007, the power agent Duraisamy executed a sale deed in favour of one Ponnusamy vide document No.3393 of 2007.

4. In the meantime, on 17.07.2007, another son Chinnasamy and his legal heirs had executed a Power of Attorney in favour of one Ganapathiappan



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in respect of their property vide document No.755 of 2007. The purchaser Ponnusamy and power agent Ganapathiappan developed the land to an extent of 1.33 ½ cents and plotted out the same into 19 plots under the name and style of Deepak Nagar. On 08.07.2009, the defacto complainant purchased the property to an extent of 2318 ¾ sq.ft., in his wife name Dhanalakshmi vide document No.8765 of 2009.

5. While being so, on 21.02.2005, the first accused viz., Vijaya, who is none other than the first wife of the said Subramani had purchased a stamp paper and entered into an agreement for sale with the second accused viz., the petitioner herein in respect of 68 cents in S.F.No.518/4 for the total sale considered of Rs.90,000/- and received a sum of Rs.75,000/- as advance. Thereafter, the first accused failed to execute the sale deed and as such, the petitioner filed a suit in O.S.No.1100 of 2008 on the file of the learned Principal District Munisf, Coimbatore, for specific performance. The said suit was decreed in favour of the petitioner and the Court had executed a sale deed and the same registered vide document No.19298 of 2011 dated 28.09.2011. Thereafter, the petitioner mortgaged the said property with the Bank of Maharashtra, Peelamedu Branch and obtained loan to the tune of Rs.1,00,00,000/- under Mortgage Deed vide document No.15975 of 2012 dated



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18.10.2012. Again on 31.07.2013, the petitioner mortgaged the said property with the same bank and obtained a loan to the tune of Rs.1,50,00,000/- under Mortgage Deed vide document No.10307 of 2013. Accordingly, the petitioner and other accused persons created encumbrance over the subject property. Hence, the defacto complainant lodged complaint and on receipt of the complaint, the first respondent registered the FIR in Crime No.17 of 2014 for the offences punishable under Sections 120B, 467, 468, 471, 420 of IPC r/w Section 82(d) of the Indian Registration Act, 1908. After completion of investigation, the first respondent filed final report and the same has been taken cognizance in C.C.No.313 of 2022 by the Trial Court. To quash the said proceedings, the petitioner filed the present petition.

6. The learned counsel appearing for the petitioner submitted that the petitioner is a *bonafide* purchaser of the subject property and no charge is made out as against the petitioner. The first accused entered into agreement for sale with the petitioner and thereafter the first accused failed to execute the sale deed. Therefore, the petitioner filed suit for specific performance in O.S.No.1100 of 2008 on the file of the Principal District Munsif, Coimbatore and the same was decreed in his favour by the judgment and decree dated 09.09.2008. Subsequently, the sale deed was executed by the Trial Court in



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respect of the subject property and the same was registered in favour of the petitioner. Therefore, the petitioner has nothing to do with the allegations. Even assuming that the petitioner colluded with the first accused and created encumbrance over the subject property, the first accused entered into settlement with her husband Subramani before the Panchayat and released her entire right including the maintenance. It cannot be sustainable in the eye of law and as such, the release deed executed by her is non-est in the eye of law. Therefore, she has right over the property and as such she had rightly executed agreement for sale with the petitioner. Therefore, no charge is made out as against the petitioner.

7. The learned Government Advocate (Crl. Side) appearing for the first respondent submitted that now the entire case has been transferred to the learned Judicial Magistrate No.II, Tiruppur and the new CC number is not yet assigned and it is pending, in view of the stay granted by this Court.

8. The learned counsel appearing for the second respondent submitted that by suppressing the release deed executed by the first accused viz., Vijaya, the petitioner filed the suit for specific performance and obtained the exparte decree. Thereafter, the petitioner mortgaged the property and

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created encumbrance over the subject property. Therefore, all the accused persons had committed the offences and hence, he prayed for dismissal of this petition.

9. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

10. On perusal of the records and on the submissions made by the learned counsel appearing on either side, it is revealed that the subject property belongs to one Palanisamy Gounder and he had two wives. Both the wives had four children each. On 25.09.1990, there was a partition between the children of Palanisamy Gounder and accordingly A Schedule property allotted to one Subramanian and he had two wives. The first accused is none other than the first wife of the said Subramanian. After the first accused released her entire right over the property including the maintenance, she executed release deed in favour the said Subramanian registered vide document No. 8 of 1980. Thereafter, the said Subramanian died on 18.02.1991. Utilising the said circumstances, the first accused in order to grab the entire property without giving any share to the second wife of the said Subramanian, by suppressing the release deed executed by the first accused, entered into an agreement with



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the petitioner for sale of the subject property. Subsequently, the petitioner and the first accused colluded with each other and filed a suit for specific performance in O.S.No.1100 of 2008 on the file of the Principal District Munsif, Coimbatore. Thereafter, the first accused conveniently absented herself before the Trial Court and as such an exparte decree was passed in the said suit in favour of the petitioner. On the strength of the exparte decree, the petitioner filed execution petition and got the property registered in his favour. Thereafter, the petitioner mortgaged the subject property and created encumbrance over the property.

11. In fact, the subject property was sold out in favour of the third parties and the same was developed by the purchaser into 19 plots under the name and style of Deepak Nagar. One of the plot was purchased by the second respondent herein and criminal proceedings were initiated. There are prima facie materials to attract the offence under Sections 120B, 467, 468, 471, 420 of IPC r/w Section 82(d) of the Indian Registration Act, 1908 as against the petitioner.

12. The Hon'ble Supreme Court of India in the judgment reported in **2019 (4) SCC 351** in the case of **Devendra Prasad Singh Vs. State of Bihar &**
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Anr., (Crl.A.No.579 of 2019 dated 02.04.2019) while dealing with the petition

to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no prima facie case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 161 of Cr.P.C.

13. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of **Central Bureau of Investigation Vs. Arvind Khanna**, (Crl.A.No.1572 of 2019 dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therefore, this Court has no power to consider the disputed facts under Section 482 of Cr.P.C.

14. The Hon'ble Supreme Court of India in another judgment dated 02.12.2019 passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs.**

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K.R.Meenakshi & anr, held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

15. Further this Court cannot observe at this stage that the initiation of criminal proceeding itself is malicious. Whether the criminal proceeding is malicious or not, is not required to be considered at this stage. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained to quash the entire proceedings.

16. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.313 of 2022 on the file of the learned Judicial
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Magistrate, Special Court for Land Grabbing Cases, Tiruppur. The petitioner is at liberty to raise all the grounds before the trial Court. The trial Court viz., the learned Judicial Magistrate No.II, Tiruppur, is directed to re-number the case in C.C.No.313 of 2022 on the file of the learned Judicial Magistrate, Special Court for Land Grabbing Cases, Tiruppur, and complete the trial within a period of six months from the date of receipt of copy of this Order. It is made clear that if the petitioner settled the issue amicably with the second respondent/defacto complainant, it is open to the Trial Court to compound the offence.

17. With above directions, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

27.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN. J,

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- To
1. The Judicial Magistrate,
Special Court for Land Grabbing Cases,
Tiruppur.
 2. The Judicial Magistrate No.II,
Tiruppur.
 3. The Inspector of Police,
District Crime Branch,
Tiruppur District.
 4. The Public Prosecutor,
Madras High Court,
Madras.

Crl.O.P.No.5394 of 2023 and
Crl.M.P.Nos.3385 & 3387 of 2023

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