



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18-02-2026

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CRL RC No. 303 of 2026

1. Velmurugan

2. Nithiyadevi

3. Ishwarya

4. Mohanapriya

...Petitioner(s)

Vs.

State Rep.by,
The Inspector of Police,
Kumarapalayam,
Kumarapalayam Police Station,
Namakkal District.

...Respondent(s)

PRAYER: Criminal Revision Case is filed under Section 438 r/w 422 of BNSS Act, 2023, to set aside the order passed in Crl.M.P.No.247 of 2025 dated on 12.12.2025 on the file of Judicial Magistrate, Kumarapalayam and direct the respondent to investigate the complaint dated 27.09.2024.

For Petitioner(s): Mr.T.Muruganantham

For Respondent(s): Mr.R.Vinothraja
Government Advocate (Crl. Side)

ORDER

The revision challenges the dismissal of the petition dated 12.12.2025 passed by the learned Judicial Magistrate, Kumarapalayam, in Crl.M.P.No.247 of 2025 filed under Section 175 (3) of BNSS.



2. It is the case of the petitioners that they had executed a power of attorney in favour of the proposed accused one Radhamani, on 25.04.2023; that based on the said power of attorney, the said Radhamani executed two sale deeds on 28.12.2023 in respect of 50% share each of the property in favour of two different persons; that thereafter, those two persons had executed powers of attorney in favour of Radhamani; thus, the said Radhamani had executed all these documents to deprive the petitioners of their property illegally; that when the sale deeds were registered, the proposed accused had produced the life certificates of the petitioners and therefore, the proposed accused is guilty of cognizable offences.

3. The learned Magistrate dismissed the application on the ground that there is no material to show that the life certificate was forged and that the allegations predominantly discloses a civil dispute.

4. Mr. T. Muruganantham, learned counsel for the petitioners would vehemently contend that even though the petitioners have an option to approach the Civil Court to cancel the sale deeds, the act of the proposed accused in forging the life certificates constitutes a cognizable offence and therefore, the impugned order is liable to be set aside and the respondent has to be directed to register a complaint and investigate the offence.



5. Heard the learned Government Advocate (Crl. Side) for the respondent.

6. Admittedly, the petitioners had executed a power of attorney in favour of the proposed accused. The petitioners had not cancelled the said power of attorney until the sale deeds were executed on 28.12.2023. Even according to the learned counsel, the power of attorney is valid for one year and only thereafter a life certificate is required. Even assuming that the life certificate is not genuine, this Court is of the view that the offences would not be made out as the essential ingredients in any property offence, namely, 'dishonestly' or 'fraudulently', have not been established.

7.(i) This legal position has been elaborately considered by the Hon'ble Supreme Court in *Vimla (Dr) v. State (NCT of Delhi)*, reported in **1962 SCC OnLine SC 172**. The Hon'ble Supreme Court had summarised the meaning of the expression, 'defraud' in Section 25 of the IPC which defines "fraudulently" in the following terms:

"the expression "defraud" involves two elements, namely, deceit and injury to the person deceived. Injury is something other than economic loss, that is, deprivation of property, whether movable or immovable, or of money, and it will include any harm whatever caused to any person in body, mind, reputation or such others. In short, it is a non-economic or non-pecuniary loss. A benefit or advantage to the deceiver will almost always cause loss or detriment to the deceived. Even in those rare cases where there is a benefit or advantage to the deceiver, but no corresponding loss to the deceived, the second condition is satisfied."



In this case the petitioners have not established any harm in body, mind or reputation so as to establish injury other than pecuniary loss to bring the act of proposed accused within the definition of ‘fraudulently’.

(ii) Similarly, ‘Dishonestly’ is defined in Section 24 of the IPC, which reads as follows:

“Whoever does anything with the intention of causing wrongful gain to one person or wrongful loss to another person, is said to do that thing “dishonestly”.”

Hence, unless either a wrongful loss is caused to the victim or a wrongful gain to the deceiver, ‘dishonestly’ would not be made out.

8. In the absence of either of the above two essential ingredients in any property offence except theft, where only ‘dishonestly’ is the only ingredient required, the property offences would not be made out. Therefore, this Court finds no infirmity in the impugned order dated 12.12.2025.

9. With the above observations, this Criminal Revision Case is dismissed.

18-02-2026

Mac
Index:Yes/No
Speaking/Non-speaking order
Neutral Citation:Yes/No



To

1. The Judicial Magistrate, Kumarapalayam
2. The Inspector of Police,
Kumarapalayam,
Kumarapalyam Police Station,
Namakkal District.



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SUNDER MOHAN J.
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