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CRL OP No. 9199 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 02-03-2026**

CORAM

**THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN**

**Crl. OP No. 9199 of 2022**

**and**

**Crl. MP No. 5345 of 2022**

Prasanth.K.K.  
S/o.K.K.Nanu,  
Shangrila, P.O.Naluthara,  
Pandakal Desom,  
Mayyazhi Commune,  
Pondicherry.

..Petitioner

Vs

1. Shebi Manikoth  
W/o.Ajith Kumar,  
Shebi Nivas, P.O.Naluthara,  
Palloor, Mahe, Pondicherry.

2. The Inspector of Police  
Mahe  
(R2 Suo Motu impleaded as per  
order dated 21.02.2024 in  
Crl. O.P.No 9199 of 2022)

..Respondents

**Prayer :** Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for records in C.C.No.23 of 2021, on the file of Judicial Magistrate, Mahe and quash the same.



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For Petitioner:

Mr.S.Frangkelin  
for M/s.Saravabhauman Associates

For Respondents:

Mr.R.Daya Sharif  
for L.Thanasingh for R1  
Mr.A.Alexander  
Government Advocate (Pondy) for R2

### **ORDER**

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.23 of 2021 on the file of the Judicial Magistrate, Mahe.

2. The first respondent lodged a private complaint under Section 190(1)(a) of the Code of Criminal Procedure as against the petitioner for the offences punishable under Sections 406, 420 and 468 of the IPC. The allegation in the complaint is that the first respondent and her husband were known to the petitioner. While being so, in the year 2021, they approached the petitioner to sell their property situated at Door No.MMC VII/75 in R.S.No.27/4, O.S.No.105/1, Chalakara Desom, admeasuring 5.71 acres. After negotiations, the petitioner purchased the said property for a valid sale consideration by a registered sale deed dated 09.01.2021 vide document No.542 of 2021. In the said sale deed, the husband of the first respondent had also stood as a witness. Subsequently, the first respondent alleged that the sale consideration was not



paid and, on that basis, filed the present private complaint for the offences punishable under Sections 406, 420 and 468 of IPC. After recording the sworn statement, the Trial Court had taken cognizance for the offences punishable under Sections 406, 420 and 468 of IPC and issued summons to the petitioner.

3. A perusal of the entire complaint reveals that the first respondent, in order to borrow a loan, had executed an agreement for sale in favour of the petitioner. The first respondent never intended to sell the property and that she had accepted a loan amount to the tune of Rs.35,00,000/-. However, the petitioner did not arrange the said amount and also did not pay the agreed sale consideration. The petitioner assured that the amount would be released and as such the first respondent was constrained to execute the sale deed. However, the first respondent does not dispute the execution of the sale deed. In fact, her husband stood as witness to the document. The only allegation raised by the first respondent is that, in the recital of the sale deed, it has been stated that a sum of Rs.15,95,000/- was paid through bank transaction, which was also acknowledged by the first respondent. Now, the first respondent disputed that no amount was received through the bank.



4. A perusal of the recitals of the sale deed dated 09.01.2021 reads as follows :

9. It is submitted that the accused arranged a document as sale deed and got it executed and registered. The accused has not paid any consideration as mentioned in document No. 542/2021. The recital in page number 3 related to consideration is as follows. "ഇന്ന് നിശ്ചയിച്ച തീര് വില ഉറുപ്പിക പതിനഞ്ച് ലക്ഷത്തി തൊണ്ണൂറായിരം (15,95,000/-) നിങ്ങളുടെ പക്കൽ നിന്ന് ബാങ്ക് മുഖേന കിട്ടി ബോധിപ്പിതനാൽ (English Translation - The sale price for Rs. 15,95,000/- (Rupees Fifteen Lakh Fifty Thousand only) accepted by me through Bank). It is submitted that this complainant is holding Bank account No. 1478101013246 of Canara Bank, Pallor Branch and Bank Account No. 40597101008425 of Kerala Gramin Bank, Chokli. There was no payment to the any of the bank also. It is submitted that the original deed No. 2320/2015 of S.R.O.Mahe and original deed No. 542/2021 of S.R.O. Mahe is in unlawful possession of the accused. There was no payment through Bank or through any other mode.

5. Thus, it is clear that the sale deed did not even contain the name of the bank or the account number. Therefore, the petitioner has not specifically stated in the sale deed that the sale consideration was paid to the account of the respondent in any particular bank account. In such circumstances, the allegations levelled against the petitioner do not attract the ingredients of the offences under Sections 406, 420 and 468 of IPC.



6. It is relevant to rely upon the judgment made by the Honourable Supreme Court of India in the case of *M/s. Indian Oil Corporation Vs. NEPC India Limited and others [(2006) 6 SCC 736]*, held that the civil liability cannot be converted into criminal liability and it is necessary to take notice of a growing tendency in business circle to convert purely civil dispute in criminal case. This is obviously on account of prevalent impression that civil law remedies are time consuming and do not adequately protect the interest of lender/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable breakdown of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claim which do not involve any criminal offence by applying pressure through criminal prosecution should be deprecated and dishonoured.

7. In the case of *G.Sagar Suri Vs. State of Uttar Pradesh [2000 (2) SCC 636]*, the Honourable Supreme Court of India held as follows:-

*“It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence, criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal Court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to*



*prevent abuse of the process of any Court or otherwise to secure the ends of justice.”*

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8. The above judgment is squarely applicable to the case on hand, since no offence is made out as against the petitioner from the allegations levelled in the complaint. That apart, the petitioner herein filed a suit in O.S.No.15 of 2021 before the District Munsif Court, Mahe, seeking permanent injunction restraining the first respondent herein from entering into the suit property and also restraining them from cutting and removing the trees available in the suit property. At the same time, the first respondent also filed a suit in O.S.No.17 of 2021 on the file of the District Munsif, Mahe, seeking prohibitory injunction and also directed the petitioner to re-deliver the original documents relating to the subject property by way of mandatory injunction. The suit filed by the petitioner was dismissed, whereas the suit filed by the first respondent was decreed by a common judgment and separate decree dated 12.06.2025 in O.S.Nos.15 & 17 of 2021. The Trial Court also held that the sale deed executed in favour of the petitioner in respect of the subject property without any payment of sale consideration is void per se, and therefore a separate prayer for declaration to declare the same as null and void is not necessary. The Trial Court also directed the petitioner to re-deliver all the original documents in respect of the subject property within a period of fifteen days. So far, the



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petitioner did not file any appeal as against the Judgment and Decree passed by the Trial Court. Further, as stated supra, in order to prosecute the petitioner, no offence is made out as against him.

9. In view of the above, the proceedings in C.C.No.23 of 2021 on the file of the Judicial Magistrate, Mahe, cannot be sustained and are liable to be quashed. Accordingly, the same is hereby quashed. However, if any trespasses into the subject property by the petitioner or indulges in any other illegal occupation in the subject property, the first respondent is at liberty to lodge a fresh complaint on a fresh cause of action. On receipt of the complaint, the second respondent is directed to take appropriate action against the petitioner in the manner known to law.

10. In the result, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

**02-03-2026**

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

LPP



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To

1.The Judicial Magistrate,  
Mahe

2.The Inspector of Police  
Mahe .

3.The Public Prosecutor (Puducherry),  
High Court, Madras.



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**G.K.ILANTHIRAIYAN J.**

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