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Crl.O.P.No.7667 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2026

CORAM

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

Crl.O.P.No.7667 of 2023
and Crl.M.P.Nos.4885 & 4886 of 2023

1. Thomas Alva Edison

2. Jeyamary

3. Mariya Susai Nickson

4. Arockiyaraj

5. Arokiyamary

.... Petitioners

Vs

1. State rep.by
The Sub Inspector of Police,
District Crime Branch,
Nagapattinam District.

2. Kathiravan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records C.C.No.1376 of 2022 on the file of the learned Judicial Magistrate No.I, Nagapattinam and quash the same.



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For Petitioners : Mr.N.R.Elango
Senior Advocate for
M/s. A.S.Aswin Prasanna

For R1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

For R2 : Mr.B.Arvind Srevatsa

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.1376 of 2022 on the file of the learned Judicial Magistrate I, Nagapattinam, thereby having been taken cognizance for the offences punishable under Sections 167, 406, 420, 465, 466, 467, 468, 471, 477(A), 120 B r/w 109 IPC, as against the petitioners.

2. The case of the prosecution is that on 18.09.2020 the 2nd respondent/defacto complainant Kathiravan S/o.Thangarasan, President of AIADMK, District Cooperative Union, Nagapattinam made a complaint before the 1st respondent that the petitioners/accused A1 to A3 in collusion with Accused A4 the then Village Administrative Officer has forged the documents and usurped the land belonging to one Rajathagireeswarar temple and Government poramboke land in Velankanni, Nagapattinam. It is alleged that lands in Plot No.81/2A5 to an extent of 0.05.00 Acres in Velankanni village,



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Keezhvelur Taluk, Nagapattinam had Patta No.5 in the name of the ancestral trustee of one Tatchinamurthy Thevar of Arulmigu Rajathagireeswarar Thirukovil. As per the land tenure improvement scheme, the above mentioned land was subdivided into 4 portions as below and Natham patta No.6 revealed that the lands were in the name of the above temple as per records viz., land measuring 0.00.75 acres in new Plot No.81/13; land measuring 0.01.80 acres in Plot No.81/14; land measuring 0.00.95 acres in Plot No.81/15 and land measuring 0.01.50 acres in Plot No.81/2A5. The plot No.81/13 land was in the temporary enjoyment of A2 by building a house.

3. On 26.06.2013 Thomas Alva Edison (A1) misusing his post of President, Velankanni Municipality with the help of the then Village Administrative Officer (A4) and the then Deputy Tahsildar, Keezhvelur one Kandasamy prepared a fake Chitta in the name of A1's mother one Jeyamary (A2) w/o. Arokiyaraj (A5). Using the said Chitta and with the knowledge that the land belongs to the temple, A10 one Subramanian, a document writer created a forged document and with the help of A13 one Benz Jaisingh, the then Sub Registrar (incharge) of Tirupoondi registered a settlement deed as if executed by A2 in favour of her younger son A3 one Mari Susai Nixon vide Doc.No.1317/2013 dated 26.12.2013. A4 who was retired by then and one



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Thangavel (A12) had signed as a witness to the settlement deed. The value of the land at that time is said to be Rs.1,09,00,000/-.

4. On 14.11.2019 one Kandasamy the then VAO of Velankanni had issued Chitta and Adangal in favour of A2 based on the earlier mentioned forged documents and mutated revenue records. It is further alleged that one Rajasekaran, the then Deputy Tahsildar, Keezhvelur had issued Chitta and Adangal in favour of A3. A3 executed a settlement deed vide Doc.No.1697/2019 dated 12.12.2019 in favour of his brother A1 for the land in S.No.81/13 measuring 500 sq.mt valued at Rs.45 lakhs with the help of A14 one Sakthivel, a document writer, A15 one Muthuraja, an advocate who has signed in the document and A18 one Prithvi, the then Sub Registrar. One Mariacharles (A16) and one Sakthivel had signed as a witness to it. All the above transactions have been committed without necessary documents, in conspiracy of all the above accused with the intention to encroach the land. Thereafter, on 28.07.2012 using a similar modus operandi another land measuring 115 sq.mt in Plot No.98/5B was encroached by forging the Government records and by creating a fake entries in Patta No.792 and Chitta in the name of A6 (Arokiyamary, sister of A2). The alleged illegal acts were done by misusing A1's position and in collaboration with A4, A8 one Elangovan (then Deputy



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Tahsildar, Keezhvelur). On 20.12.2018, using the fake chitta as the primary document and in conspiracy with A1-A4, A14, A15 and A18, the above land was settled in favour of A2 vide registered Doc.No.1199/2018.

5. It is alleged that one Rajaselvam and A17 one Veeramani a friend of A1 had signed as witness to this document. In 2013, using the same modus operandi another land measuring 150 sq.mt in Plot No.124/1 and one another land measuring 200 sq.mt in Plot No.124/9 was encroached by forging the Government records and by creating fake entries in Patta No.824 and obtained Chitta in the name of A5 (Arokiyaraj, father of A1). The alleged illegal acts were done by misusing A1's position and in collaboration with A4, A9 one Vijaya (then Tahsildar, Keezhvelur). On 20.12.2018, using the fake Chitta as the primary document and in conspiracy with A1-A4, A14, A15 and A18, the above land was settled in favour of A2 (wife of A5) vide registered Doc.No.1198/2018. One Rajaselvam and A17 one Veeramani a friend of A1 had signed as witness to this document. In 2013, using a similar modus operandi, another land measuring 100 sq.mt in Plot No.99/43 was encroached by forging the Government records and by creating fake entries in Patta No.832 and obtained Chitta in the name of A7 (one Victor, alleged benami of A1). A7 settled the above land with the help of A11 (one Selvaraj, a document writer), A13 (one



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Benz Jaisingh) in favour of his brothers one John Britto and one Aruldass vide Doc.No.68/2014. A7's son one Gaja has signed as a witness to it.

6. It is further alleged that Aruldass with the help of A14, had executed a sale agreement to the extent of his share (50 sq.mt) in favour of one Daniel John Joseph vide Doc.No.933/2020 dated 26.08.2020 with the help of A15, A18. A private land in Velankanni village in Survey Number 5/1A was bought by Government to build free house for people affected by Tsunami in 2004. It is alleged that A1 encroached 50 cents from the above mentioned land from 'C' block and built a compound around it. Hence, the complaint.

7. Based on the complaint lodged by the second respondent, the first respondent registered an FIR dated 18.09.2020 for the offences punishable under Sections 120B, 409, 420, 465, 467, 471, 477 and 477A of IPC and the charges were further altered on 14.11.2021 to the offences under Sections 167, 406, 420, 465, 466, 467, 468, 471, 477(A), 120 B r/w 109 IPC. After completion of the investigation, the first respondent filed a final report and the same has been taken cognizance by the Trial Court in C.C.No.1376 of 2022 on the file of the learned Judicial Magistrate I, Nagapattinam. To quash the said proceedings the petitioners filed the present petition.



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8. The learned Senior Counsel Mr.N.R.Elango appearing for the petitioners mainly raised three grounds for quash. The first one is that the learned Magistrate has taken cognizance without assigning any reason and the second one is that there are different transactions as alleged by the second respondent and it cannot be clubbed together. The third ground is that the second respondent has no locus to lodge complaint since he is a private party and does not have custody over it.

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

10. This Court is not inclined to entertain this quash petition on the second and third grounds. On perusal of the order passed by the trial Court, the trial Court has taken cognizance mechanically without application of mind by passing a rubber stamp order for the offences punishable under Sections 167, 406, 420, 465, 466, 467, 468, 471, 477(A), 120 B r/w 109 IPC, without assigning any reason. The Hon'ble Supreme Court of India has repeatedly directed the Trial Court that while taking cognizance the Court shall pass proper order by assigning reasons from the final report filed by the



complainant/prosecution. Insofar as taking cognizance of the complaint and the issuance of summons are concerned, summoning of an accused in a criminal case is a serious matter. The order of Trial Court must reflect that the Trial Court has applied its mind to the facts of the case and the law applicable thereto. The Trial Court is required to examine the nature of allegations made in the complaint and the evidences both oral and documentary in support thereof and has to conclude whether that would be sufficient for proceeding against the accused. Hence the Trial Court is not a silent spectator at the time of recording of preliminary evidence before summoning the accused.

11. In the case on hand, in a rubber stamp method, the Trial Court had taken cognizance without assigning any reason for making out prima facie case for issuance of summons. The provision under Section 204 of Cr.P.C., deals with the issuance of process. If the Trial Court taking cognizance of a case on receipt of the complaint thinks that there is prima facie case for proceeding in respect of an offence, the Trial Court shall issue process against the accused. Therefore, the presence of sufficient ground for proceeding is of immense importance as provided under Section 204 of Cr.P.C. An opinion is to be formed only after due application of mind that there is sufficient basis for proceedings against the said accused and formation of such an opinion is to be stated in the



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order itself. If no reason is given in support of the order of the issuance of process, it is clear that the Trial Court failed to apply its mind and is unsustainable in law. On this sole ground the order of taking cognizance as against the petitioners cannot be sustained and are liable to be quashed.

12. In view of the above discussions, the proceedings in C.C.No.1376 of 2022 on the file of the learned Judicial Magistrate I, Nagapattinam, is hereby quashed. The entire proceedings shall be remanded back to the learned Judicial Magistrate No.I, Nagapattinam for taking cognizance by passing a reasoned order within a period of four weeks from the date of receipt of a copy of this order.

13. With the above directions, the Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petitions are closed.

24.03.2026

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

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To
The Judicial Magistrate No.I,
Nagapattinam

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