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Crl.O.P.No.9012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2026

CORAM:

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

Crl.O.P.No.9012 of 2023
and Crl.M.P.No.5804 of 2023

1. S.Ravi
S/o. Saravanan, No.63/25, Sriji Apartments,
Rajasekar Street, Royapettah,
Chennai - 600 014.

2. R. Amutha
W/o. S. Ravi, No.63/25, Sriji Apartments,
Rajasekar Street, Royapettah,
Chennai - 600 014.

..Petitioner(s)

Vs

1. The State Of Tamil Nadu Rep.By
The Inspector Of Police, H1, Washermenpet,
Chennai - 600 021.

2. D. Shanmugaraj
S/o. A. Deenadayalan, No.73a, Perambalu
Chetty Street, Old Washermenpet,
Chennai - 600 021.

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in C.C.No.196 of 2021 on the file of the XV Metropolitan Magistrate, George Town, Chennai and quash the same and thus render justice.



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For Petitioner(s):

Mr.Charles Kamalesh

For Respondent(s):

Mr.A. Gopinath

Government Advocate (Crl. Side) for R1

No appearance for R2

ORDER

This petition has been filed to quash the proceedings in C.C.No.196 of 2021 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai, thereby taken cognizance for the offence punishable under Section 420 of IPC as against the petitioners.

2. The case of the prosecutions is that the petitioners received an advance to the tune of Rs.8,00,000/- and also assured to execute a sale deed in respect of the property belonging to them in favour of the second respondent. Thereafter, the petitioners failed to execute the sale deed and also refused to return back the money which was received as advance. Hence, the second respondent lodged complaint. On receipt of the same, the first respondent registered the FIR in Crime No.315 of 2019. After completion of investigation, filed final report and the same has been taken cognizance by the trial Court in C.C.No.196 of 2021 for the offence punishable under Section 420 of IPC. To quash the said proceedings, the petitioners filed the present petition.

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3. Heard the learned counsel appearing on either side and perused the materials placed before this Court. Though notice served on the second respondent, no one is present before this Court on behalf of the second respondent either by person or through counsel.

4. On perusal of the records, it is revealed that subsequently to the registration of the criminal case, the second respondent filed a suit in O.S.No.126 of 2020 on the file of the III Assistant City Civil Court, Chennai, for recovery of money of Rs.8,60,000/- and the same was referred to Lok Adalath. The matter has been settled between the petitioners and the second respondent on the following terms :-

"1. The Parties have settled for Rs.8,00,000/- as full and final quit before the Mediation centre on 03.09.2019. out of the said amount, a sum of Rs. 2,00,000/- was paid by the Defendants to the Plaintiff out of the court. The balance remains to be paid is Rs.6,00,000/-.

2. The balance sum of Rs. 6,00,000/- shall be paid by the Defendant by way of 1 monthly installments @ not less than Rs.30,000/- and not more than Rs.40,000/-.

3. The installment amount so mentioned shall be paid on or before 10th day of every succeeding English Calendar month.



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4. *On the payment of entire balance of Rs.6,00,000/-, the plaintiff agreed that the criminal case filed by him will be withdrawn as per law."*

Accordingly, the matter has been settled between the parties.

5. That apart, as per the complaint lodged by the second respondent no offence is made out as against the petitioners since it is only civil dispute between the petitioners and the second respondent and there is no averments to attract the offence under Section 420 of IPC. The second respondent has alleged in the complaint that the petitioners had committed offence under Section 420 of IPC. It would thus be necessary to examine the ingredients of the above offences and whether the allegations made in the complaint, read on their face, attract those offences under the Penal Code. Section 405 of Penal Code reads thus:-

"405. Criminal breach of trust — Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or wilfully suffers any other person so



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to do, commits "criminal breach of trust".

A careful reading of Section 405 of IPC shows that the ingredients of a criminal breach of trust are as follows:-

(i) A person should have been entrusted with property, or entrusted with dominion over property;

(ii) That person should dishonestly misappropriate or convert to their own use that property, or dishonestly use or dispose of that property or willfully suffer any other person to do so; and

(iii) That such misappropriation, conversion, use or disposal should be in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract which the person has made, touching the discharge of such trust.

Entrustment is an essential ingredient of the offence. A person who dishonestly misappropriates property entrusted to them contrary to the terms of an obligation imposed is liable for a criminal breach of trust and is punished under Section 406 of the Penal Code.

6. It is relevant to extract the provisions under Section 420 of the Penal Code as follows :-

“420. Cheating and dishonestly inducing delivery of property — Whoever cheats and thereby dishonestly induces



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the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

The ingredients to constitute an offence under Section 420 of IPC are as follows :-

(i) A person must commit the offence of cheating under Section 415 and

(ii) The person cheated must be dishonestly induced to (a) deliver property to any person or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.

Cheating is an essential ingredient for an act to constitute an offence under Section 420.

7. It is relevant to rely upon the judgment made by the Hon'ble Supreme Court of India in the case of ***M/s. Indian Oil Corporation Vs. NEPC India Limited and others*** reported in (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



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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.

8. In the case of **G.Sagar Suri Vs. State of Uttar Pradesh** reported in **2000 (2) SCC 636**, the Hon'ble 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.”

The above judgments are squarely applicable to the case on hands. Therefore, the present proceedings cannot be sustained and liable to be quashed.



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9. Accordingly, the impugned proceedings in C.C.No.196 of 2021 on the file of the learned XV Metropolitan Magistrate, George Town, Chennai, is hereby quashed as against the petitioners and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

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

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To

1. The XV Metropolitan Magistrate,
George Town, Chennai.

2. The Inspector Of Police,
H1, Washermenpet,
Chennai - 600 021.

3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN. J,

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