IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 29372 of 2022
and
CRL.MP.No.17967 of 2022

G.Sudakar Gupta
(Name as per Charge Sheet ‘Guduru Sudakar Gupta’)

..Petitioner(s)

Vs

1. The Inspector Of Police,
   Anti Land Grabbing Special Cell,
   District Police Office Campus,
   Coimbatore District - 641 018.
2. M.S.Anvardeen

..Respondent(s)

CRP filed under Section 482 of Cr.P.C. to call for the records in C.C.No.41 of 2022 pending on the file of the Judicial Magistrate, Special Court for Trial of Land Grabbing Cases, Coimbatore and quash the same.

For Petitioner(s): Mr.S.R.Rajagopal, Senior Counsel
for M/s.G.R.Lakshmanan

For Respondent(s): Mr.A.Gopinath,
Govt. Advocate (Crl. Side), for R1
R2 – No Appearance

ORDER

This Criminal Original petition has been filed seeking to quash the entire proceedings in C.C.No.41 of 2022 pending on the file of the Judicial Magistrate, Special Court for Trial of Land Grabbing Cases, Coimbatore.

2. The case of the prosecution is that the second respondent lodged a complaint against the petitioner/eighth accused and seven other accused persons. The allegation is that under a registered partition deed, dated 11.11.1959 in Document No.6220 of 1959, the 'B' schedule property was allotted in favour of one Nataraja Nadar, who is the father of the first accused, namely, Soundararajan. The said Nataraja Nadar had borrowed money from one A.Noor Mohammed and committed default. Consequently, the said A.Noor Mohammed filed a suit for recovery of money in OS.No.185 of 1971. The suit was decreed and in order to release the decree amount, the property bearing Survey No.110/2 measuring an extent of 3.4 acres situated at Perur Chettipalayam, Village, Coimbatore South Taluk, Coimbatore, which had been allotted in favour of Nataraja Nadar, was brought to public auction on 14.11.1979. During the said auction, the second respondent purchased the property for a sum of Rs.17,559/-. The second respondent took possession of the property. The revenue records were also mutated in his name and patta was also issued in his favour. While that being so, the first accused, being the son of

the said Nataraja Nadar, created a Will in the year 1992 as if the said Nataraja Nadar had settled the said property in his favour. Thereafter, the first accused by offering the said property as collateral security, availed loan from M/s.ING Vysya Bank Ltd., R.S.Puram Branch, Coimbatore to the tune of Rs.2,94,95,844.16. Subsequently, the first accused had committed default in repayment of the loan. Therefore, the Bank initiated proceedings under SARFAESI Act and attached the subject property. Only thereafter, the second respondent came to know about the proceedings and lodged a complaint. After receipt of the said complaint, the first respondent registered a case in Crime No.55 of 2011 for the offence under Sections 420, 465, 468, 471 and 120(B) IPC. After completion of investigation, a final report was filed and the same was taken on file as C.C.No.41 of 2022.

3. The learned Senior Counsel appearing for the petitioner submitted that the petitioner is arrayed as the eighth accused. He had joined the M/s.ING Vysya Bank Ltd., R.S.Puram Branch, Coimbatore in the year 1992 and relieved from the said Branch in the year 1997. In the year 1994, on receipt of loan application from the first accused, after verification of legal opinion issued by the Legal Unit, he merely recommended for loan. Ultimately, the Head Office of the M/s.ING Vysya Bank Ltd. sanctioned the loan based on the mortgage created over the property.

4. The learned Senior Counsel further submitted that the alleged Will was fabricated in the year 1992 by forging the signature of Nataraja Nadar, who was the original owner of the property. The petitioner had absolutely no knowledge about such alleged fabrication or forgery. There is no material to show that the petitioner conspired with the other accused persons. The learned Senior Counsel in support of his contentions, relied on the judgment of the Hon'ble Supreme Court of India in ***Mariam Fasihuddin and another vs. State by Adugodi Police Station and another*** reported in 2014 11 Supreme Court Cases 733 and ***State of Haryana and others vs. Bhajan Lal and Others*** reported in 1992 Supp (1) Supreme Court Cases 335.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the first respondent submitted that the petitioner was the Manager of the M/s.ING Vysya Bank Ltd., R.S.Puram Branch, Coimbatore at the time of sanctioning the loan. He conspired together with other accused persons, forged the signature of Nataraja Nadar and fabricated the Will in respect of the subject property in favour of the first accused. On the strength of the Will, he sanctioned huge amount of loan to the first accused. Subsequently, the first accused had committed default and the property was attached by the Banker under the SARFAESI proceedings. The statement of the second respondent and also other evidences are very clear, which attracts the offence as against the

petitioner. That apart, the ground raised by the petitioner can be considered only during trial after appreciation of evidence.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the first respondent and perused the materials available on record.

7. There are eight accused in this case, and the petitioner has been arrayed as the eighth accused. The specific allegation against the petitioner is that he was working as the Manager of M/s.ING Vysya Bank Ltd., Coimbatore at the time of sanctioning the loan in favour of the first accused to the tune of Rs.2,94,95,844.16 based on the forged documents created over the suit property.

8. Admittedly, the alleged forged Will was created in the year 1992 as if Nataraja Nadar, had executed the same in favour of the first accused in respect of the subject property. Subsequently, the first accused, mortgaged the said property and availed a loan from M/s.ING Vysya Bank Ltd., Coimbatore. The petitioner, who was working as the Manager of the said Bank, had obtained legal opinion from the Bank's Legal Team and after filed inspection, recommended the loan for a sum of Rs.2,94,95,844.16. Based on such recommendation, the Head Office of the M/s.ING Vysya Bank Ltd., sanctioned loan in favour of the first accused. However, the first accused committed default in repayment of the loan amount and the Bank initiated proceedings under the

SARFAESI Act. Consequently, the Debts Recovery Tribunal, Coimbatore granted a decree. When the property was brought for sale by auction, the second respondent came to know about the alleged creation of bogus documents and the loan obtained by using such documents.

9. It is seen that the second respondent lodged complaint in the year 2011. However, the charge sheet was filed only in the year 2022. There is absolutely no explanation offered by the Prosecution for the inordinate delay of nearly 11 years in filing the charge sheet. In the meantime, the second respondent obtained joint patta in the year 2015.

10. On the basis of the Will of the year 1992 in respect of the subject property and on verification of the legal opinion given by the legal team of the Bank, the petitioner recommended the loan. Further, none of the witnesses had spoken about any conspiracy involving the petitioner in forging the signature of Nataraja Nadar. At the time of alleged fabrication of the Will in 1992, the petitioner who was working as the Manager of the Bank, had absolutely no knowledge about the alleged fabrication nor any acquittance with the other accused persons. A perusal of the entire records also reveals that the allegations against the petitioner are vague and do not specifically attribute any role to him in the alleged conspiracy. Therefore, the continuation of the proceedings against the petitioner would amount to a clear abuse of the process of law.

11. In order to attract the offences of forgery, reliance is placed on the judgment of the Hon'ble Supreme Court in ***Mariam Fasihuddin and another vs. State by Adugodi Police Station and another,*** reported in 2014 11 Supreme Court Cases 733**,** wherein the essential ingredients of the offence of forgery have been explained. The relevant paragraph of the said judgment reads as follows:

*"**The offence of forgery under Sections 468 and 471 IPC***

***32.** The offence of "forgery" under Section 468IPC postulates that whoever commits forgery, intending that the document or electronic document forged, shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine. Whereas Section 471IPC states that whoever fraudulently or dishonestly uses as genuine any documents which he knows or has reason to believe it to be a forged document, shall be punished in the same manner as if he had forged such document.*

***33.** There are two primary components that need to be fulfilled in order to establish the offence of "forgery", namely: (i) that the accused has fabricated an instrument; and (ii) it was done with the intention that the forged document would be used for the purpose of cheating. Simply put, the offence of forgery requires the preparation of a false document with the dishonest intention of* *causing damage or injury. [Sushil Suri v. CBI, (2011) 5 SCC 708, para 26 : (2011) 2 SCC (Cri) 764]*

34. *The offences of "forgery" and "cheating" intersect and converge, as the act of forgery is committed with the intent to deceive or cheat an individual. Having extensively addressed the aspect of dishonest intent in the context of "cheating" under Section 420IPC, it stands established that no dishonest intent can be made out against the appellants. Our focus therefore will now be confined, for the sake of brevity, to the first element i.e. the preparation of a false document.*

35. *The determination of whether the appellants prepared a false document, by forging Respondent 2's signature, however, cannot be even prima facie ascertained at this juncture. Considering the primary ingredient of dishonest intention itself could not be established against the appellants, the offence of forgery too, has no legs to stand. It is also significant to highlight that the proceedings as against the Passport Officer concerned, who was implicated as Accused 4, already stand quashed. In such like situation and coupled with the nature of allegations, we are unable to appreciate as to why the appellants be subjected to the ordeal of trial.*

36. *That apart, there are glaring procedural irregularities that have been overlooked by the trial Magistrate, which warrants examination. It is extremely important to delve into these improprieties since the supplementary charge-sheet filed by the investigating authority included the offence of "forgery" under Sections 468 and 471IPC. "*

12. The above judgment squarely applies to the facts of the present case. The prosecution has failed to produce any material to make out a charge of forgery against the petitioner. The two essential components to establish offence of forgery are missing in this case. viz., i) the petitioner had fabricated an instrument; and ii) it was done with the intention that the forgery document would be used for the purpose of cheating.

13. In view of the above, it is evident that there is no material or evidence to show the petitioner's involvement in the alleged conspiracy or in the fabrication of the forged Will in respect of the subject property, or in the sanction of the loan based on such document.

14. At this juncture, the learned Government Advocate (Crl. Side) by producing the death certificate submitted that the second respondent died as early as on 22.01.2016. He further submitted that a non-bailable warrant has been issued against the petitioner on the ground that he had not complied with the directions issued by Trial Court.

15. A perusal of the records reveals that this Court, by order dated 24.04.2023, had dispensed with the appearance of the petitioner before the Trial Court. However, the Trial Court has mechanically issued a non bailable warrant against the petitioner for his absence. Though the interim order of dispensation

was not periodically extended by this Court, the same has also not been cancelled so far.

16. It is relevant to rely on the judgment of the Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Bhajan Lal and Others*** reported in 1992 Supp (1) Supreme Court Cases 335, which lays down the categories of cases where the High Court may exercise its inherent powers to quash the criminal proceedings.

> *"**102.** In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we have given the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.*
>
> *(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.*

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge."

17. It is clear that the present criminal proceedings have been filed with malafide intention with an ulterior motive as against the petitioner. Therefore, the proceedings cannot be sustained and are liable to be quashed insofar as against the petitioner alone is concerned.

18. Accordingly, the Criminal Original Petition is allowed and the proceedings in C.C.No.41 of 2022 on the file of the Judicial Magistrate, Special Court for Trial of Land Grabbing Cases, Coimbatore are quashed insofar as the petitioner is concerned. Consequently, connected miscellaneous petition is closed.

09-03-2026

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

To
1. The Judicial Magistrate,
   Special Court for Trial of Land Grabbing Cases,
   Coimbatore.
2. The Inspector Of Police,
   Anti Land Grabbing Special Cell,
   District Police Office Campus,
   Coimbatore District - 641 018.

G.K.ILANTHIRAIYAN, J.

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