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CRL RC No. 1858 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-02-2026

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

**CRL RC No. 1858 of 2023
& CrI.M.P.No.17470 of 2023**

1. C.L.Selvaraj
S/o. Mr.Lucas Naidu
2. O.S. Josephine
W/o. Mr.C.L.Selvaraj
3. C.S.Santhosh Raj
S/o. Mr.C.L.Selvaraj,
all are residing at No.54, Tirupathi Nagar,
Valasaravakkam, Chennai - 600 087.

..Petitioner(s)

Vs

1. State Rep.By
Inspector of Police, District Crime Branch,
Tiruvallur. Ref.Cr.No.46/2010
2. Mr C.J.Antony Paul,
Flat No - I Archana Castle, No 4/23
St.Patrick Church Road, Butt Road, St.Thomas
Mount, Chennai-600 015
(R2 Suo Motu Impleaded as per Order
Dt 8/11/2023 in CrI Rc/1858/2023)

..Respondent(s)

Prayer: This Criminal Revision Petition is filed under Section 397 r/w. 401 of Cr.P.C., to call for the records in CC.No.43/2011 on the file of the Hon'ble Judicial Magistrate No.I, Tiruvallur and Set aside the order passed in the CrI.MP.3060/2023 dated 21.09.2023 and discharge the petitioner of all the alleged offences in CC.No.43/2011 on the file of the Hon'ble Judicial Magistrate No.I, Tiruvallur.



For Petitioner(s):

Mr.R.Rajarathinam, Senior Counsel
for Mr.S.V.Pravin Rathinam

For Respondent(s):

Mr.R.Vinothraja
Government Advocate(Crl. side) for R1
No appearance for R2**ORDER**

The Revision challenges the dismissal of the discharge petition filed by the petitioners who are arrayed as A2 to A4 in CC.No.43 of 2011 filed for the offences under Sections 420, 465, 468, 471 and 34 IPC.

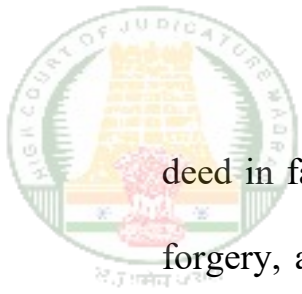
2.The gist of the prosecution case is that one Prakashammal owned 15 acres of land in Govindhamedu Village at Thiruvallur District; that she had executed a registered Will in the year 1989 bequeathing 5 acres of land to the defacto complainant and 7 acres and 14 cents of land to one Jayaprakash, who was then a minor; that the said Jayaprakash predeceased Prakashammal; that the said 7 acres and 14 cents of land reverted to the said Prakashammal; that after her death, the first accused, who is the husband of one of the legal heirs of the son of the said Prakashammal had forged a Will, said to have been executed by the deceased Prakashammal in the year 1991 and claimed right over the property measuring 7 acres 14 cents; that thereafter, he executed a Power of Attorney in favour of the first petitioner/A2 on 28.06.2006, by virtue of which, the first petitioner had executed a sale deed in favour of the second petitioner/A3, who in turn, executed a settlement deed in favour of third



petitioner/A4 on 19.04.2010; that in the meanwhile, a rectification deed was executed by the first accused on 26.10.2007 by stating that the property was acquired by the first accused by a registered Will executed by the said Prakashammal on 30.08.1991; and thus, all the petitioners along with the first accused had committed the aforesaid offences.

3.The petitioners sought for discharge before the trial Court on the ground that the prosecution had not produced any materials to show that the Will dated 30.08.1991 executed by Prakashammal was forged; that one of the legal heirs of the son of Prakashammal viz., Mary Josephine had filed a suit in O.S.No.110 of 2010 on the file of the District Munsif Court, Thiruvallur for partition and also for declaration that the Will in favour of A1 was forged; that the said issue is therefore, pending before the civil Court; and that in any case, the petitioners cannot be accused of forgery as they are purchasers for valid consideration. The trial Court dismissed the discharge petition on the ground that the points raised by the petitioner cannot be adjudicated at the stage of charge framing.

4.(i) Mr.R.Rajaratnam, learned Senior Counsel appearing for the petitioners would submit that the first accused had executed a power of attorney in favour of the first petitioner in the year 2006; that thereafter, a sale deed was executed by the first petitioner in favour of the second petitioner on the basis of the power of attorney; that the second petitioner, in turn, executed a settlement



deed in favour of the third petitioner; that the petitioners cannot be accused of forgery, as even admittedly, there is no allegation of forgery as against them; that there is no allegation that the documents in their favour were sham and nominal; and that they had purchased the property for valid consideration.

4(ii) The learned Senior Counsel would also refer to the suit filed by one of the legal heirs Mary Josephine and would submit that the suit was dismissed for non-prosecution in the year 2023 and the suit is yet to be restored to file. He would also submit that the petitioners had filed O.S.No.229 of 2010 before the District Munsif Court, Tiruvallur to declare a partition deed between the legal heirs as null and void; that the said suit is stayed by this Court in CRP.No.3326 of 2025; and that in any case the allegation of forgery of Will cannot be gone into by the criminal court, when the very same question is pending before the civil Court and relied upon the Judgment of the Hon'ble Supreme Court in ***Sardool Singh and Another Vs. Smt.Nasib Kaur*** reported in ***1987 SCC (Crl) 672***.

5. Heard the learned Government Advocate(Crl. Side), who would submit that the allegations cannot be adjudicated in a discharge petition; that the first accused is though married to one of the legal heirs of the son of Prakashammal, is otherwise a stranger to the family and that there is no reason for Prakashammal to execute a Will in his favour; that the question as to whether



the petitioners had knowledge of the forgery and purchased the property has to be decided only by the trial Court and prayed for dismissal of the Revision.

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6.This Court had impleaded the defacto complainant *suo motu* and issued notice. Though notice has been served, none had entered appearance.

7.The allegations in the final report, as stated above, is that the accused had forged the Will in his favour, said to have been executed by the deceased Prakashammal and had executed a power of attorney in favour of A2, the first petitioner herein. There is no material in the final report to show that the first petitioner had knowledge of the alleged forgery. Admittedly, the property was purchased by the petitioners for a valid sale consideration. It is also seen from the final report and the materials that the Will said to have been forged has not been sent for forensic examination. In any case, the admitted facts suggests that the petitioners cannot be prosecuted, as there is no material to infer that they had knowledge of the alleged forgery.

8.That apart, as stated above, one of the legal heirs of Peter Manuel, who is the son of Prakashammal, Mary Josephine had filed a suit before the District Munsif Court, Thiruvallur in O.S.No.110 of 2010 claiming partition and also stating that the Will in favour of the first accused is forged. The said suit, according to the learned counsel for the petitioners has been dismissed. It is also



seen that the petitioners had filed O.S.No.229 of 2010, which has since been stayed by this Court in CRP.No.3326 of 2025. The case was instituted in the year 2011, when the suit filed by one of the legal heirs of the deceased Prakashammal was pending. Therefore, the Judgment relied upon by the learned counsel for the petitioners in *Sardool Singh case* (cited supra) would be squarely applicable to the facts of the case and the validity of the Will has to be tested before the civil Court.

9. Therefore, this Court is of the view that even if the civil Court were to hold that the Will is forged, the petitioners would not acquire title over the property. But, in the facts and circumstances of the case, the petitioners cannot be prosecuted for the offences of forgery and cheating in the absence of any evidence to suggest the commission of the said offences. Therefore, this Court is inclined to set aside the impugned order and discharge the petitioners from the alleged offences. It is open to the trial Court to proceed against the other accused in accordance with law.

10. Accordingly, the Revision is allowed. Consequently, the connected criminal miscellaneous petition is closed.

20-02-2026

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



To

1.The Judicial Magistrate No.I, Tiruvallur.

2.The Inspector of Police,
District Crime Branch,
Tiruvallur. Ref.Cr.No.46/2010.

3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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