



CrI.O.P.No.30551 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2026

CORAM:

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

CrI.O.P.No.30551 of 2022 and
CrI.MP.No.18726 of 2022

PON. KUMAR

... Petitioner

Vs.

1.State rep. By INSPECTOR OF POLICE,
Kunnaththur Police Station,
Thiruppur District
(crime No.60 of 2022)
2.N.SHANMUGAM

... Respondents

Prayer: Criminal Original petition filed under Section 482 of Cr.P.C. praying to call for the records in CC.No.410 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Uthukuli, Thiruppur District and to quash the same.

For Petitioner : Ms.S.Suseela Devi

For Respondents

For R1 : Mr.A.Gopinath,
Government Advocate (crl.side)

ORDER

This criminal original petition has been filed praying to quash the proceedings in CC.No.410 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Uthukuli, Thiruppur District.



CrI.O.P.No.30551 of 2022

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2. The second respondent lodged complaint alleging that the property comprised in RS.No.106/1 to 106/12 to an extent of 5 acres (hereinafter called as ‘the subject property’) were donated by then owners i.e. Kittappa Mudhaliyar, Ramasamy Mudhaliyar, Angappa Mudaliyar, Rangasamy Mudaliyar & Annamalai Mudaliyar by way of unregistered gift deed dated 04.04.1985 in favour of one, Pongali Mudaliyar who is the then President of the School Building Committee, Panchayat Union School, Velliraveli, Erode District to upgrade the Panchayat Union School to Government High School, Velliraveli. The Building Committee had executed settlement deed in favour of the Chief Educational Officer of School Education Department, Erode District. The second respondent further alleged that the settlor had no title over the property. On the basis of the unregistered gift deed, the settlor had executed settlement deed in favour of the settlee. While being so, the second respondent had purchased 0.44 cents in the property comprised in the same survey number by the registered sale deed dated 29.05.2008 vide document No.2964 of 2008 from one of the legal heirs of the deceased owner of the said land. On receipt of the said complaint, the first respondent registered FIR in crime No.60 of 2012 for the offence punishable under Section 120B, 466, 468, 470, 471, 420 of IPC and Section 3(i) of TNPPDL Act.



Crl.O.P.No.30551 of 2022

WEB COPY

3. After completion of investigation, final report was filed and the same was taken cognizance in CC.No.410 of 2019 on the file of the District Munsif cum Judicial Magistrate, Uthukuli. There are totally four accused in which the petitioner is arrayed as A2. The first accused is the settlor. The second accused is the settlee. Third and fourth accused are witnesses to the settlement deed. It is unfortunate to state that the settlor who had executed gift deed in favour of the settlee who is none other than the Chief Educational Officer of the Education Department and the persons who stood as witnesses to the settlement deed are arrayed as accused. Now the second respondent is also no more. The first accused is also no more. The officer who served as Chief Educational Officer at the time of execution of settlement deed has now been arrayed as A2. Though it is unregistered gift deed, it was executed by the original owner of the subject property. Subsequently, the gift deed was executed by the President of the School Building Committee in favour of Chief Educational Officer of School Education Department in order to upgrade the said school from Panchayat Union Middle School to Government High School. In fact, the said gift deed was not even registered on the ground that the value of the said property was below Rs.100/-. In view of the said gift deed, the Government upgraded the middle school to

Page 3 of 8



CrI.O.P.No.30551 of 2022

Government High School, Velliraveli by the GO.No.1244 dated 16.10.1985.

4. Thereafter, the subject land was utilised for school building and the school is now running. After period of 23 years, one of the legal heirs of the deceased original owner had executed sale deed in respect of the property admeasuring 0.44 cents from the subject property in favour of the second respondent by the registered sale deed dated 06.05.2008 registered vide document No.2964 of 2008. The second respondent, without even verifying the property and without even taking possession of the property, he had simply purchased the property even after knowing the fact that the said property was already executed in favour of Chief Educational Officer, Education Department. In fact, the second respondent also filed suit as against the Collector, District Chief Educational Officer and the settlor for declaration and recovery of possession on the strength of the sale deed executed in favour of the second respondent. The said suit was dismissed by the judgment and decree dated 28.04.2023 in OS.No.164 of 2020 on the file of the District Munsif cum Judicial Magistrate, Uthukuli. The trial court also observed that there are discrepancies and uncertainties regarding ownership and title over the property. The burden being on the plaintiffs to establish the



CrI.O.P.No.30551 of 2022

clear trace of title, they have failed to do so. Further, the previous possession by the Education Department has been established. Therefore, the second respondent and another are not entitled to the relief of declaration and recovery of vacant possession in respect of the subject property. Therefore, no offence is made out against all the accused persons. In fact, one of the witnesses i.e. the fourth accused filed quash petition before this Court in CrI.OP.No.11160 of 2018 and the same was also allowed by this Court by order dated 27.01.2022 thereby quashed the entire proceedings in CC.No.410 of 2019 as against that person.

5. In view of the above, the entire proceedings in CC.No.410 of 2019 cannot be sustained as against the petitioner and also other accused persons who did not file quash petition. In the interest of justice, though other persons did not file any quash petition, this Court is inclined to quash the entire proceedings as against all the accused persons. Accordingly, the entire proceedings in CC.No.410 of 2019 on the file of the District Munsif Cum Judicial Magistrate, Uthukuli, Thiruppur District is quashed in respect of all the accused persons.



Crl.O.P.No.30551 of 2022

6. In the result, this criminal original petition stands allowed.

Consequently, connected miscellaneous petition is closed.

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02.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
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Crl.O.P.No.30551 of 2022

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To

1.District Munsif Cum Judicial Magistrate, Uthukuli, Thiruppur District

2.State rep. By INSPECTOR OF POLICE,

Kunnaththur Police Station,

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Crl.O.P.No.30551 of 2022

G.K.ILANTHIRAIYAN, J.

lok

Crl.O.P.No.30551 of 2022

02.03.2026