BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 04.06.2026

ORDER PRONOUNCED ON : 09.06.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP(MD).No. 1376 of 2026
and
Crl.MP(MD).Nos.1446 & 1447 of 2026

1.Mr.Ilavarasan

2.Ms.Bhavani ....Petitioners/Accused Nos.3 & 4

Vs

1.The State of Tamil Nadu
Rep.by the Inspector of Police
Alanganallur Police Station
Madurai District ....1st Respondent/Complainant

2.Ms.Rajeswari ....2nd Respondent/Defacto Complainant

Prayer: The Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita Act, 2023 to call for the entire records pertaining to the charge sheet in C.C.No.83 of 2022 on the file of the Judicial Magistrate, Vadipatti, Madurai and quash the same insofar as the petitioners are concerned.

For Petitioners : Mr.Adithya Varadarajan
For Mr.J.Hariharan

For Respondents :Mr.J.Vishnu
Counsel for State of Tamil Nadu for R1
:Mr.U.Antony Santhosh for R2

ORDER

The present petition has been filed by accused Nos.3 & 4 against C.C.No.83 of 2022 on the file of the Judicial Magistrate, Vadipatty, Madurai seeking to quash the charge sheet wherein they are charged with the offences under Sections 147, 120(b), 406, 420, 468, 471 and 506(i) I.P.C.

2.A perusal of the charge sheet reveals that an extent of 1.55 ½ acres in S.Nos.115 and 115/2A in Pothumbu Village was owned by one Nataraj Nadar. He passed away on 16.11.2001 leaving behind his two sons (accused Nos. 1 and 2) and 5 daughters including the defacto complainant and his widow. The Tahsildhar, Madurai South Taluk had issued a legal heir certificate on 10.04.2002 reflecting all the 8 legal heirs.

3.It is alleged in the charge sheet that accused Nos.1 and 2 (sons of the deceased Nataraj Nadar) had obtained another legal heir certificate from the same authority on 15.06.2007 as if they are the only legal heirs of the deceased Nataraj Nadar. It is further alleged in the charge sheet that accused Nos.1 and 2 had executed a registered power deed for the above said property in favour of the 4th accused by way of a document registered in Document No.437/2008 on 20.02.2008. Thereafter, based upon the said power deed, accused Nos.3 and 4 had applied for land use conversion for formation of layout and they obtained layout approval. It is further alleged that the 4th accused had executed a sale deed in favour of the 3rd accused under a registered document on 22.09.2011 based upon the power deed.

4.On 11.03.2014 one of the sisters of accused Nos.1 and 2 (defacto complainant) had lodged a complaint to the first respondent police alleging fraudulent sale of the family property using forged legal heir certificate and an F.I.R came to be registered in Crime No.129 of 2014. After investigation, a charge sheet has been laid before the Judicial Magistrate Vadipatti in C.C.No. 83 of 2022. Seeking to quash the above said charge sheet, the present petition has been filed.

5.According to the learned counsel appearing for the petitioners, the petitioners are not aware of the legal heir certificate issued by the authorities in the year 2002. They were carried away by the legal heir certificate of the year 2007 and they relied upon the power deed and created a layout. The plots in the layout has been sold to several third parties and finally a sale deed came to be executed by a power agent (A4) in favour of A3.

6.According to the petitioners, they are the bonafide purchasers have acted in good faith for valuable consideration and there is no reason whatsoever for doubting the genuinity of the legal heir certificate. The learned counsel had further contended that the legal heir certificate dated 15.06.2007 is not a forged document and it has been issued by a competent authority. The only allegation is that accused Nos.1 and 2 have suppressed the existence of availability of other legal heirs under the previous legal heir certificate and had obtained a second legal heir certificate. In such circumstances, the alleged offence under Section 465 of I.P.C is not made out. In fact, the power deed was executed in favour of 4th accused only after legal heir certificate was issued in favour of accused Nos.1 and 2. Therefore, there is no role whatsoever on the part of the 4th accused in obtaining a legal heir certificate in the year 2007. He further contended that a bonafide purchaser cannot be held criminally liable for the criminal action of his vendor. He further pointed out that the ingredients of Section 420 I.P.C are also not made out in view of the fact that there is no deception in inducing delivery of the property. The learned counsel also pointed out that Sections 406 and 420 of I.P.C cannot go together as the ingredients of respective sections are mutually destructive.

7.The learned counsel appearing for the petitioners had further contended that though the complaint was lodged before the concerned police in the year 2014, so far civil suit has not been filed seeking partition. The defacto complainant is also a resident of the same village and therefore, she was very well aware of clearing of the area, creation of layout and selling of the plots and there was enormous delay of filing of final report and therefore, the charge sheet as against the accused Nos.3 and 4 has to be quashed.

8.The learned counsel for the petitioners had relied upon the decisions of the Hon'ble Supreme Court reported in ***1992 Supp (1) SCC 355*** *(State of Haryana Vs.Bhajan Lal),* ***(2018) 7 SCC 581*** *(Sheila Sebastian Vs.R.Jawaharaj and another)*, ***(2024) 10 SCC 690*** *(Delhi Race Club (1940) Limited and others Vs.State of Uttar Pradesh and another)* and ***2025 SCC Online SC 2529*** *(Inder Chand Bagri Vs.Jagadish Prasad Bagri and another)* in support of his contentions.

9.Per contra, the learned counsel appearing for the defacto complainant had contended that having full knowledge about the existence of the other legal heirs, the petitioners herein have entered into a power deed and thereafter, created a layout and sold to the third parties. In such circumstances, the defacto complainant or her other sisters would not be in a position to get back the property. Therefore, the criminal proceedings are the only way of them to get back the property.

10.The learned counsel for the defacto complainant had further submitted that the ingredients of Sections 147, 120(b), 406 and 506(i) of I.P.C have been made out. Whether the petitioners had any knowledge about the issuance of the second legal heir certificate suppressing the existence of the first one or not can be found out only during trial. They are not bonafide purchasers for valuable consideration and therefore, their contentions cannot be considered in the quash petition.

11.Heard both side and perused the material records.

12. A perusal of the legal heir certificate dated 15.06.2007 annexed to the charge sheet reveals that there are only two legal heirs of the deceased Nataraj Nadar namely accused Nos.1 and 2. There is no allegation whatsoever that it is a fake document. It has been issued by a competent authority. However, the only allegation is that such a certificate has been obtained suppressing the existence of the previous legal heir certificate which included the daughters and the widow of the deceased Nataraj Nadar. In such circumstances, this Court is of the considered opinion that the legal heir certificate cannot be considered to be a forged document.

13.A perusal of the general power of attorney annexed to the charge sheet executed by Accused Nos.1 and 2 in favour of the 4th accused reveals that accused Nos.1 and 2 have contended that it is their exclusive property being the only the legal heirs of the deceased Nataraj Nadar. Therefore, it is clear that accused Nos. 1 and 2 have fraudulently claimed that they are the exclusive owners of the property. A perusal of the sale deed executed by the 4th accused in favour of the 3rd accused which is annexed to the charge sheet reveals that it has been sold for a sale consideration of Rs.3,54,540/- and the same has been registered on 22.11.2011. After creation of layout, a document has been executed in favour of the local body gifting the land by way of document dated 10.08.2012.

14.A perusal of the charge sheet does not anywhere allege that accused Nos.3 and 4 had knowledge about the first legal heir certificate dated 10.04.2002. There is no allegation whatsoever that accused Nos.3 and 4 had knowledge about the existence of the other legal heirs of the deceased Nataraj Nadar.

15.It could also be seen from the charge sheet that accused Nos.3 and 4 are neither connected with the family or the residents of the said locality to have knowledge about the other legal heir of the deceased Nataraj Nadar. In such circumstances, it is clear that accused Nos.3 and 4 did not have any knowledge whatsoever about the suppression of the first legal heir certificate. The second legal heir certificate is also not a forged document which was issued by the competent authority. However, the other legal heirs were excluded due to the suppression by accused Nos.1 and 2. No specific overtact have been alleged as against the power agent and the purchaser who are arrayed as accused Nos.3 and 4.

16.The Hon'ble Supreme Court in a judgment reported in ***2026 SCC Online SC 702 (S.Anand Vs.State of Tamil Nadu Represented by its Inspector of Police and another)*** had an occasion to consider a case where a person had relied upon a forged Will and purchased the property. Paragraph Nos.22 to 24 is extracted as follows:

"22. Be that as it may, the appellant, being a purchaser of the subject property for valuable consideration, cannot, in the facts of the present case, be considered to be the person who offered fraudulent inducement to respondent No.2- complainant or made him to deliver some property or part with valuable security so as to bring his acts within the purview of fraudulent inducement and cheating to gain property punishable under Section 420 IPC [correspondingSection 318(4) of the Bharatiya Nyaya Sanhita, 2023].

23. Admittedly, there is no privity of contract between the appellant and respondent No.2- complainant. Neither the FIR nor the impugned order discloses availability of any tangible material to substantiate the allegation that the appellant had conspired in the preparation of the alleged forged Will, or that the registered sale deed dated 18th December, 1998 was executed by him with knowledge that the signatures on the Will were forged.

24. As a matter of fact, even if the allegation of the respondent No.2-complainant, that the Will was forged, is found to be substantiated, the purchasers of the property would be the persons aggrieved because in such circumstances, their title over the property in question would land in dispute, having being acquired from the vendor who used the so- called fabricated will to execute the registered sale deeds.......

17.The Hon'ble Supreme Court in a judgment reported in ***(2009) 8 SCC 751 (Mohammed Ibrahim and others Vs.State of Bihar and another)*** in Paragraph Nos.17 to 22 has held as follows.

"17.When a document is executed by a person claiming a property which is not his, he is not claiming that he is someone else nor is he claiming that he is authorised by someone else. Therefore, execution of such document (purporting to convey some property of which he is not the owner) is not execution of a false document as defined under section 464 of the Code. If what is executed is not a false document, there is no forgery. If there is no forgery, then neither section 467 nor section 471 of the Code are attracted.

Section 420 IPC

18. Let us now examine whether the ingredients of an offence of cheating are made out. The essential ingredients of the offence of "cheating" are as follows:

(i) deception of a person either by making a false or misleading representation or by dishonest concealment or by any other act or omission;

(ii) fraudulent or dishonest inducement of that person to either deliver any property or to consent to the retention thereof by any person or to intentionally induce that person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived; and

(iii) such act or omission causing or is likely to cause damage or harm to that person in body, mind, reputation or property.

19. To constitute an offence under section 420, there should not only be cheating, but as a consequence of such cheating, the accused should have dishonestly induced the person deceived

(i) to deliver any property to any person, or

(ii) to make, alter or destroy wholly or in part a valuable security (or anything signed or sealed and which is capable of being converted into a valuable security).

20. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. <u>But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused.</u>

21.<u>It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds.</u> Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and *fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner.*

22.As the ingredients of cheating as stated in section 415 are not found, it cannot be said that there was an offence punishable under sections 417, 418, 419 or 420 of the Code."

18. The judgements of the Hon'ble Supreme Court cited supra are squarely applicable to the facts of the present case, in view of the fact that there is no specific overtact as against the present petitioners herein. The petitioners are the bonafide purchasers for valuable consideration without having knowledge about the first legal heir certificate. In such circumstances, continuation of the criminal proceedings as against the petitioners herein would only be an abuse of process of law.

19.In view of the above said facts, the charge sheet in C.C.No.83 of 2022 on the file of the Judicial Magistrate Court, Vadipatti stands quashed as against the petitioners herein. This Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

09-06-2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

1.The Judicial Magistrate
Vadipatti

2. The Inspector of Police
Alanganallur Police Station
Madurai District

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court,
Madurai

R.VIJAYAKUMAR, J.

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