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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on: 27.10.2026

Pronounced on : 04.11.2026

CORAM

THE HON'BLE MR. JUSTICE R.VIJAYAKUMAR

Crl.O.P.(MD)No. 2437 of 2026

CNR:{HCMD010080332026}

Chellasamy

..Petitioner(s)

Vs

S.Muthupandian

..Respondent(s)

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to set aside the judgment dated 02.12.2025 passed by the learned District Judge, Tenkasi, in Crl.A.No.52 of 2025, arising out of the order passed in M.J.C.No.1 of 2025 in O.S.No.20 of 2025.

For Petitioner(s) : M/s V.V.Giridhar

For Respondent(s) :M/s.S.Radhakrishnan

ORDER

This Criminal Original Petition is directed against the judgment dated 02.12.2025 passed by the learned Principal District Judge, Tenkasi, in Crl.A.No.52 of 2025, whereby the order dated 28.07.2025 passed by the learned Subordinate Judge, Sankarankoil, in M.J.C.No.1 of 2025, came to be set aside.

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Factual Matrix:-

2. The respondent herein is the plaintiff in O.S.No.20 of 2025 on the file of the Sub Court, Sankarankoil, which has been laid for the relief of declaration and other consequential reliefs. The petitioner herein is arrayed as the first defendant in the said suit. Along with the plaint, the respondent/plaintiff has filed photocopies of the following two unregistered documents:-

(a) Plaint Document No.2, a sale deed dated 06.11.1993, said to have been executed by the petitioner in favour of the respondent's father, one Samuthiravel; and

(b) Plaint Document No.3, a settlement deed dated 15.04.2013, said to have been executed by the said Samuthiravel in favour of his son, the respondent herein.

3. Contending that both the above documents are forged and fabricated, the petitioner/first defendant filed a petition under Section 379

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read with Section 215(1)(b) of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as 'BNSS'), which was taken on file as M.J.C.No.1 of 2025.

4. Without any oral or documentary evidence being let in by either side, the learned Subordinate Judge, by order dated 28.07.2025, held as follows:-

(a) that there was no prima facie material to hold that Plaint Document No.2, namely, the sale deed dated 06.11.1993, was fabricated; and

(b) that a prima facie case of fabrication was made out in respect of Plaint Document No.3. The sole reason assigned by the trial Court was that Tenkasi District came to be formed only on 12.11.2019, whereas the stamp vendor's seal and the address of the parties found in the said document, which is of the year 2013, refer to "Tenkasi District".

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5. On the very same day, the trial Court also allowed I.A.No.8 of 2025 filed by the defendant, seeking a direction to the plaintiff to produce the original documents. The finding rendered in respect of Plaint Document No.2 was not challenged by the petitioner and the same has, therefore, attained finality.

6. Aggrieved by the said order insofar as it related to Plaint Document No.3, the respondent/plaintiff preferred an appeal in Crl.A.No.52 of 2025 before the learned Principal District Judge, Tenkasi. The learned Principal District Judge allowed the appeal, recording the following findings:-

(a) that where the fabrication is alleged to have taken place outside the Court, the Court, before making a complaint, ought to conduct a preliminary enquiry and must be satisfied that the document is forged. The Court must further arrive at a finding that the respondent was a party to the fabrication or had knowingly used the forged document, and that he had acted with the requisite *mens rea*; and

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(b) that the Sub Court had acted on a mere presumption, at a premature stage, even before the originals were produced or the documents were marked in evidence.

7. The appellate Court further observed that it was open to the petitioner to lodge a private complaint, and that the trial Court may take action under Section 379 of BNSS (corresponding to Section 340 of Cr.P.C.), if necessary, after adjudicating upon the genuineness of the documents. Challenging the said judgment of the appellate Court, the defendant/complainant has come before this Court.

Submissions of the learned Counsel on either side:-

8. The learned Counsel for the petitioner contended that the suit has been laid on the strength of forged, unregistered and unstamped documents, and that the petitioner raised the plea of forgery at the very first opportunity. The Sub Court, after hearing both sides, recorded its prima facie satisfaction. According to the learned Counsel, the trial Court was entitled to act as soon as the false document was brought to its notice, and was not required to await the conclusion of the trial.

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9. In support of his contentions, the learned Counsel for the petitioner placed reliance upon the following decisions:-

(a) P.S.Kirubakaran and another Vs. Azizul Karim, reported in *2021 (3) CTC 409*;

(b) Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another, reported in *(2005) 4 SCC 370*;

(c) T.Dhinakaran (Minor), rep. by his next friend and grandmother, Vijaya and another Vs. V.Ranganathan, reported in *2017 (8) MLJ 606*; and

(d) Arockiasamy Vs. State of Tamil Nadu, reported in *2024 (3) MWN (Cr.) 158 (SC)*.

10. The learned Counsel for the petitioner further submitted that the plea regarding the illiteracy of the respondent's father was raised for the first time only in the appeal and is nothing but an afterthought. Despite the order passed in I.A.No.8 of 2025, the respondent has not produced the original documents. It was further contended that the

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appellate Court erred in relegating the petitioner to the remedy of a private complaint.

11. Per contra, the learned Counsel for the respondent submitted that, in terms of Section 380(2) of BNSS, the judgment rendered in appeal is final and is not amenable to revision. Hence, the inherent jurisdiction of this Court cannot be invoked to circumvent the said statutory bar.

12. The learned Counsel for the respondent further submitted that the suit for declaration is founded on long possession and that the illiteracy of the respondent's father has been specifically pleaded in the plaint itself. Only photocopies of the documents were filed before the Sub Court, and till date, no issues have been framed and no evidence has been recorded. The very basis of the finding of the Sub Court is factually incorrect. The replies obtained under the Right to Information Act from the competent authority, namely, the Registration Department, clearly reveal that the Tenkasi Sub Registration District has been in existence as

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early as in the year 1973, and that the stamp papers in question were purchased by the respondent's father, Samuthiravel, on 13.04.2013, from a stamp vendor whose seal reads "Tenkasi District". Placing reliance upon the decision in ***Iqbal Singh Marwah***'s case, the learned Counsel submitted that where no tampering is alleged to have taken place while the document was in the custody of the Court, the initiation of proceedings under Section 379 of BNSS is unsustainable in law.

13. Heard the learned Counsel on either side and perused the materials available on record.

14. Section 379 of BNSS empowers a Court to make a complaint where it is of the opinion that it is expedient in the interests of justice that an enquiry should be made into an offence referred to in Section 215(1)(b) of BNSS, which appears to have been committed. Such an opinion must rest on material, and the power cannot be exercised on mere suspicion or on doubtful inferences. A prosecution for false evidence ought to be directed only where the falsehood appears to be deliberate

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and conscious, and there exists a reasonable foundation for framing the charge.

15. The Hon'ble Supreme Court, in ***Chajoo Ram Vs. Radhey Shyam***, reported in ***(1971) 1 SCC 774***, at paragraph 7, has held as follows:-

> *"7.The prosecution for perjury should be sanctioned by courts only in those cases where the perjury appears to be deliberate and conscious and the conviction is reasonably probable or likely. No doubt giving of false evidence and filing false affidavits is an evil which must be effectively curbed with a strong hand but to start prosecution for perjury too readily and too frequently without due care and caution and on inconclusive and doubtful material defeats its very purpose. Prosecution should be ordered when it is considered expedient in the interests of justice to punish the delinquent and not merely because there is some inaccuracy in the statement which may be innocent or immaterial. There must be prima facie case of deliberate falsehood on a matter of substance and the court should be satisfied that there is reasonable foundation for the charge."*

16. It is thus clear from the above decision that a prosecution can be ordered only when it is considered expedient in the interests of justice,

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and not merely because there is some inaccuracy or contradiction in a statement. A prima facie case of deliberate falsehood on a matter of substance must be made out, and the Court must be satisfied that there is a reasonable foundation for the charge.

17. The question that therefore arises for consideration is whether, in the case on hand, a prima facie case of deliberate falsehood, furnishing a reasonable foundation for the charge, has been made out.

18. A perusal of Plaint Document No.3, which forms part of the typed set of papers, shows that it is an unregistered settlement deed dated 15.04.2013, executed by one Samuthiravel in favour of the respondent/plaintiff. The stamp papers bearing No.76AA 589345 were purchased on 13.04.2013 from a stamp vendor, one Guruvammal of Karivalamvandanallur, Tenkasi District. The document bears only the signature of Samuthiravel and not that of the respondent/plaintiff.

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19. The trial Court entertained suspicion over this document solely on the ground that Tenkasi District was formed only in the year 2019, and therefore, a document executed in the year 2013 could not have referred to “Tenkasi District”. However, the respondent/plaintiff has obtained a reply dated 19.09.2025 under the Right to Information Act from the District Registrar, Tenkasi. The said reply of the competent authority confirms that the stamp papers in question were sold by the concerned stamp vendor on 13.04.2013 in favour of Samuthiravel, and a copy of the relevant entry in the register maintained by the stamp vendor has also been enclosed. Yet another reply furnished by the District Registrar, Tenkasi, reveals that the Tenkasi Sub Registration District was created as early as on 30.06.1973.

20. The stamp vendor’s seal on the disputed document refers to “Tenkasi District”, and the schedule describes the property as situated within the “Tenkasi Sub Registration District”. The only circumstance relied upon to cast a cloud over the document is that the address of the plaintiff and his father is also described as “Tenkasi District”. Apart from

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this, there is no other circumstance warranting any suspicion. On the other hand, the stamp paper number, the name and seal of the stamp vendor, the name of the person in whose favour the stamp papers were sold and the date of sale have all been confirmed by the competent authority. It is also relevant to note that the respondent is not a signatory to the settlement deed, which has been signed only by his father, who is no more. In such circumstances, this Court is of the considered opinion that merely because the document refers to "Tenkasi District", the entire document cannot, at this stage, be branded as a forged one, particularly in the light of the information furnished by the District Registrar, Tenkasi, being the competent authority, which speaks to the genuineness of the stamp papers.

21. A Constitution Bench of the Hon'ble Supreme Court, in ***Iqbal Singh Marwah and another Vs. Meenakshi Marwah and another***, reported in ***(2005) 4 SCC 370***, at paragraph 23, has held as follows:-

> *"23. In view of the language used in Section 340 CrPC., the court is not bound to make a complaint regarding commission of an offence referred to in Section 195(1)(b), as the section is conditioned by the*

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words "court is of opinion that it is expedient in the interests of justice". This shows that such a course will be adopted only if the interest of justice requires and not in every case. Before filing of the complaint, the court may hold a preliminary enquiry and record a finding to the effect that it is expedient in the interests of justice that enquiry should be made into any of the offences referred to in Section 195(1)(b). This expediency will normally be judged by the court by weighing not the magnitude of injury suffered by the person affected by such forgery or forged document, but having regard to the effect or impact, such commission of offence has upon administration of justice. It is possible that such forged document or forgery may cause a very serious or substantial injury to a person in the sense that it may deprive him of a very valuable property or status or the like, but such document may be just a piece of evidence produced or given in evidence in court, where voluminous evidence may have been adduced and the effect of such piece of evidence on the broad concept of administration of justice may be minimal. In such circumstances, the court may not consider it expedient in the interest of justice to make a complaint. The broad view of clause (b)(ii), as canvassed by learned counsel for the appellants, would render the victim of such forgery or forged document remediless. Any interpretation which leads to a situation where a victim of a crime is rendered remediless, has to be discarded."

22. In ***Amarsang Nathaji Vs. Hardik Harshadbhai Patel and others***, reported in ***(2017) 1 SCC 113***, the Hon'ble Supreme Court, at paragraphs 5, 6 and 10, has held as follows:-

"5. There are two preconditions for initiating proceedings under Section 340 CrPC:

(i) materials produced before the court must make out a prima facie case for a complaint for the purpose of inquiry into an offence referred to in

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clause (b)(i) of sub-section (1) of Section 195 CrPC, and

(ii) it is expedient in the interests of justice that an inquiry should be made into the alleged offence.

6. The mere fact that a person has made a contradictory statement in a judicial proceeding is not by itself always sufficient to justify a prosecution under Sections 199 and 200 of the Penal Code, 1860 (45 of 1860) (hereinafter referred to as "IPC"); but it must be shown that the defendant has intentionally given a false statement at any stage of the judicial proceedings or fabricated false evidence for the purpose of using the same at any stage of the judicial proceedings. Even after the above position has emerged also, still the court has to form an opinion that it is expedient in the interests of justice to initiate an inquiry into the offences of false evidence and offences against public justice and more specifically referred to in Section 340(1) CrPC, having regard to the overall factual matrix as well as the probable consequences of such a prosecution. (See K.T.M.S. Mohd. v. Union of India). The court must be satisfied that such an inquiry is required in the interests of justice and appropriate in the facts of the case.

10. No doubt, such an opinion can be formed even without conducting a preliminary inquiry, if the formation of opinion is otherwise possible. And even after forming the opinion also, the court has to take a decision as to whether it is required, in the facts and circumstances of the case, to file the complaint. Only if the decision is in the affirmative, the court needs to make a complaint in writing and the complaint thus made in writing is then to be sent to a Magistrate of competent jurisdiction."

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23. A conjoint reading of the above decisions of the Hon'ble Supreme Court makes it clear that unless a prima facie case is made out, furnishing a reasonable foundation for the charge, it would not be expedient in the interests of justice to initiate proceedings under Section 379 of BNSS.

24. The appellate Court has also recorded a finding that, since the alleged forgery is said to have taken place before the document was produced before the Court, the bar under Section 195(1)(b)(ii) of Cr.P.C. [now Section 215(1)(b)(ii) of BNSS] would not be attracted, and that the genuineness of the document and the respondent's connection with it must first be determined. This Court does not find any illegality, perversity or error in the said reasoning of the appellate Court.

25. Insofar as the decisions relied upon by the learned Counsel for the petitioner are concerned, the decisions in ***P.S.Kirubakaran*** and ***T.Dhinakaran*** recognise the power of the Court to initiate such proceedings and lay down the procedure to be followed; however, neither

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of them dispenses with the requirement of material disclosing deliberate falsehood. As regards ***Arockiasamy***'s case, the same arose out of the registration of a separate FIR, wherein it was held that the bar under Section 195 of Cr.P.C. would not operate where the alleged forgery was not committed while the matter was *sub judice*. Hence, the said decisions do not advance the case of the petitioner.

26. In view of the foregoing discussion, this Court is of the considered opinion that the appellate Court has rightly set aside the order passed by the Sub Court directing initiation of proceedings under Section 379 of BNSS.

27. It is made clear that the observations made herein are confined only to the question of making a complaint by the Court at this stage. This Court has not expressed any opinion on the genuineness of the documents dated 06.11.1993 and 15.04.2013, which shall be decided by the trial Court in O.S.No.20 of 2025 on the basis of the evidence let in, uninfluenced by any of the observations made in this order. It is always

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open to the trial Court, upon such determination, to proceed in accordance with Section 379 of BNSS, if so warranted. It is equally open to the petitioner to pursue such other remedies as may be available to him in law.

Conclusion:-

28. Accordingly, the judgment dated 02.12.2025 passed by the learned Principal District Judge, Tenkasi, in Crl.A.No.52 of 2025, is confirmed.

29. In the result, this Criminal Original Petition stands dismissed.

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

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To

Learned Principal District Judge,

Tenkasi.

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R.VIJAYAKUMAR, J.
RJR

Pre-delivery order made in
CRL OP(MD) No. 2437 of 2026

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