



CrI.OP(MD).No.4089 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 17.03.2026

ORDER PRONOUNCED ON : 24.03.2026
CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

CrI.OP(MD).No.4089 of 2024
and
CrI.MP(MD).No.3235 of 2024

V.Muruganantham

....Petitioner

Vs

1.The State rep.by
The Inspector of Police
Keeramangalam Police Station
Pudukkottai District
Crime No.93 of 2023

2.Shagul Hameed

....Respondents

Prayer:The Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records pertaining to the F.I.R in Crime No.93 of 2023 on the file of the 1st respondent police and quash the same as illegal.

For Petitioner

: Mr.R.Gandhi
Senior Counsel
for M/s.Ajmal Associates

For Respondents

:Mr.B.Thanga Aravindh
Government Advocate (CrI.side) for R1

: Mr.B.Jameel Arasu for R2



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ORDER

The present petition has been filed by the sole accused in Crime No.93 of 2023 on the file of the first respondent police seeking to quash the F.I.R wherein the petitioner is alleged to have committed offences under Sections 406, 420 and 507 of I.P.C.

2.A perusal of the F.I.R reveals that the accused person is said to have borrowed a sum of Rs.60,00,000/- from the defacto complainant in the year 2017 in two instalments for doing business. Though on several occasions, demand was made by the defacto complainant, he had not acceded to his request. On 07.12.2022 at about 9.00 a.m, the accused is said to have contacted the defacto complainant over phone and threatened him with dire consequences.

3.According to the learned Senior Counsel appearing for the petitioner, a bare perusal of the F.I.R indicates that the complaint has been filed with an ulterior motive as it is preferred after a period of six years from the date of alleged borrowal knowing fully well that a civil suit is barred by limitation. Therefore, the defacto complainant has given a criminal colour to the alleged business transaction. He further submitted that mere non-payment of money



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would not attract the offence under Section 420 I.P.C.

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4.The learned Senior Counsel had further submitted that the entrustment of property is the basic requirement to consider an offence under Section 406 I.P.C and in the absence of any material to substantiate that the property was entrusted and the same was dishonestly misappropriated, the petitioner cannot be prosecuted under Section 406 of I.P.C. The learned senior counsel had further submitted that for prosecuting the petitioner under Section 507 of I.P.C, threat must be real and by virtue of such threat, the person who had complained of such threat would have been frightened by such threat to bring home the offence under Section 507 I.P.C.

5.The learned Senior Counsel had further submitted that only if the communication is anonymous in nature, Section 507 I.P.C can be invoked. However, when the F.I.R discloses that the alleged communication was made by the accused person from his mobile number, Section 507 I.P.C cannot be invoked. The learned Senior Counsel had relied upon a decision of this Court reported in **2021 SCC Online Mad 6458** (Mathivanan Vs. Inspector of Police and others) and the judgments of the Hon'ble Supreme Court reported in **2025 SCC Online SC 823** (Rikhab Birani and another Vs. State of Uttar Pradesh and another) and **(2024) 12 SCC 483** (Lalit Chaturvedi and others Vs. State of Uttar Pradesh and another) in support of his submissions.



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6.Per contra, the learned counsel appearing for the defacto complainant submitted that the F.I.R prima facie discloses the offences under Sections 406, 420 and 507 I.P.C. Whether the petitioner has threatened the defacto complainant through mobile phone or not is the subject matter of investigation. He further submitted that he has got call recording to indicate that he had been threatened by the accused person. He had also defamed the religion of the defacto complainant. When the F.I.R discloses a prima facie case as against the accused, this Court may not interdict with the investigation process. Hence, he prayed for dismissal of the petition.

7.Heard both sides and perused the material records.

8.A perusal of the F.I.R. reveals that the accused is said to have borrowed Rs.60,00,000/- from the defacto complainant in the year 2017 for running a business and he had not returned the same and committed the breach of trust. It is alleged that on 07.12.2022, the accused had threatened the defacto complainant through by mobile phone with dire consequences. This is the sum and substance of the F.I.R.

9.The Hon'ble Supreme Court in a judgment reported in **2024 (10) SCC 690 (Delhi Race Club (1940) Ltd., and others Vs. State of Uttar Pradesh and another)** wherein Paragraph Nos. 51 & 52 has held as follows:

“51. If it is the case of the complainant that a particular amount is due and payable to him then he should have filed a



civil suit for recovery of the amount against the appellants herein. But he could not have gone to the court of Additional Chief Judicial Magistrate by filing a complaint of cheating and criminal breach of trust. It appears that till this date, the complainant has not filed any civil suit for recovery of the amount which according to him is due and payable to him by the appellants. He seems to have prima facie lost the period of limitation for filing such a civil suit.

52.In such circumstances referred to above, the continuation of the criminal proceeding would be nothing but abuse of the process of law.”

10.The Hon'ble Supreme Court reported in **(2024) 12 SCC 483 (Lalit Chaturvedi and others Vs. State of Uttar Pradesh and another)** in Paragraph Nos.9 and 10 has held as follows:

9.We will assume that the assertions made in the complaint are correct, but even then, a criminal offence under Section 420 read with Section 415 of the IPC is not established in the absence of deception by making false and misleading representation, dishonest concealment or any other act or omission, or inducement of the complainant to deliver any property at the time of the contract(s) being entered. The ingredients to allege the offence are neither stated nor can be inferred from the averments. A prayer is made to the police for recovery of money from the appellants. The police is to investigate the allegations which discloses a criminal act. Police does not have the power and



authority to recover money or act as a civil court for recovery of money.

10.The chargesheet also refers to Section 406 of the IPC, but without pointing out how the ingredients of said section are satisfied. No details and particulars are mentioned. There are decisions which hold that the same act or transaction cannot result in an offence of cheating and criminal breach of trust simultaneously. For the offence of cheating, dishonest intention must exist at the inception of the transaction, whereas, in case of criminal breach of trust there must exist a relationship between the parties whereby one party entrusts another with the property as per law, albeit dishonest intention comes later.”

11.The Hon'ble Supreme Court in a judgment reported in **2025 INSC 869 (Shailesh Kumar Singh Alias Shailesh R.Singh Vs. State of Uttar Pradesh and others)** in Paragraph No.13 has held as follows:

“13. We also enquired with the learned counsel appearing for the Respondent No.4 whether his client has filed any civil suit or has initiated any other proceedings for recovery of the money. It appears that no civil suit has been filed for recovery of money till this date. Money cannot be recovered, more particularly, in a civil dispute between the parties by filing a First Information Report and seeking the help of the Police. This amounts to abuse of process of law.”

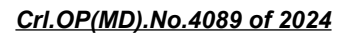


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12.The judgments of the Hon'ble Supreme Court cited supra will clearly disclose that mere non-repayment of the loan amount would not attract the criminal offence under Section 420 I.P.C. Without filing a civil suit for recovery of money before the competent civil Court, the defacto complainant cannot seek help of the police to recover money from the accused. That apart, there is no allegation whatsoever in the complaint that dishonest intention was existing from the inception of the transaction. In such circumstances, this Court is of the considered opinion that the ingredients of Section 420 I.P.C have not been made out.

13.As far as invocation of Section 406 I.P.C is concerned, first of all there should be an entrustment of property at the hands of the accused. A normal transaction of sale or exchange of money/consideration does not amount to entrustment. In such circumstances, Section 406 I.P.C is also not attracted. That apart, the Hon'ble Supreme Court in the decision cited supra, has categorically held that the same act cannot result in an offence of cheating or criminal breach of trust simultaneously.

14.As far as the offence under Section 507 I.P.C is concerned, unless the criminal intimidation by way of anonymous communication or having taken precaution to conceal the name or abode of the person from whom the threat comes, an offence under Section 507 I.P.C is not made out. In the



16. In view of the above said facts, the F.I.R in Crime No.93 of 2023 on the file of the first respondent stands quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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

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1.The Inspector of Police
Keeramangalam Police Station
Pudukkottai District
Crime No.93 of 2023

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



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R.VIJAYAKUMAR, J.

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