



Crl.O.P.(MD)No.15430 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.01.2026**

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CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.15430 of 2024
& Crl.O.P.(MD)No.9668 & 9669 of 2025

1.Sugarthi @ Barshiya
2.Nizam Baizal

... Petitioners

Vs.

1. The State of Tamilnadu,
The Inspector of POlice,
District Crime Branch,
Thoothukudi.
Crime No.13 of 2018

2.E.Jeyaraman

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the impugned CC No.890 of 2022 on the file of the Judicial Magistrate No.IV, Thoothukudi dated 22.07.2022 and quash the same as illegal.

For Petitioners : Mr.M.Vishnuvarthanan

For Respondents : Mr.B.Thanga Aravindh (R1)
Government Advocate (Crl.)
Mr.T.Selvan (R2)



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ORDER

The petitioner seeks to quash the criminal proceedings in CC No.890 of 2022 on the file of the Judicial Magistrate No.IV, Thoothukudi dated 22.07.2022.

2. The learned counsel appearing for the petitioners categorically contended that the final report in CC No.890 of 2022 is an abuse of process of law, where the respondent police has attempted to give a criminal color to a civil dispute. The defacto complainant and accused persons are the legal heirs of one TMK Ettappan Raja. The de facto complainant is the legal heir of the first wife of the TMK Ettappan Raja and all the accused are the legal heirs of the second wife of the TMK Ettappan Raja. On 20.01.1985, three settlement deeds were executed in favour of one Sampath Udhayakumar Pandian, who is the son of TMK Ettappan Raja through his second wife Kamalambigai. Thereafter, the said Sampath Udhayakumar Pandian had executed a will dated 10.05.2006 in favour of the first petitioner herein. The first petitioner is the daughter of the said Sampath Udhayakumar Pandian and the second petitioner is her husband.



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3. At the first instance, on the complaint of the defacto complainant, namely, Thangasamy, who is the son of the TMK Ettappan Raja through his first wife, a FIR in Crime No.13 of 2018 came to be registered as against four more persons other than the petitioners herein. Those three persons are also the legal heirs of TMK Ettappan Raja through his second wife, Kamalambigai. A3 is the second wife of Sampath Udhayakumar Pandian and A4 and A5 are the children of said Sampath Udhayakumar Pandian and A6 is son of TMK Ettappan Raja, claiming that the settlement deeds 20.01.1985 and the will dated 10.05.2006 are forged documents. However, after completion of investigation, A3, A4 and A5 were deleted and the final report came to be laid only as against the petitioners herein and A6. It is also understood that during the pendency of investigation, the de facto complainant, Thangasamy had passed away and one Jeyaraman, who is the brother of Thangasamy, has been incorporated by the 1st respondent police as LW1.

4. The learned counsel for the petitioners further submitted that no civil case is pending before any Court of law challenging the validity of the aforesaid three settlement deeds as well as the will. Only a suit for declaration and permanent injunction was laid by the deceased Thangasamy as against the petitioners and three others, who has been arrayed as A3 to A5 in the FIR, in



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OS No.9 of 2018 on the file of the learned II Additional District Judge, Tuticorin, which was decreed in favour of the said Thangasamy, who was arrayed as the plaintiff, on 07.06.2019. The final report has been filed claiming that the petitioners herein have utilized the settlement deeds and will, which were claimed to have been forged for the purpose of substantiating their claim before the learned II Additional District Judge, Tuticorin, in OS No.9 of 2018. However, the learned counsel for the petitioner categorically pointed out that no documents were marked by the petitioners herein at any point of time before the learned II Additional District Judge, Tuticorin. Hence, the entire prosecution version could be traced to be false and the same should necessarily be quashed.

5. Per contra, the learned counsel appearing for the second respondent submitted that the registered partition deed was effected as early as in the year 1959 between TMK Ettappan Raja and all his legal heirs, in which the schedule 1, 2, 3 and 6 of the said partition deed were allotted to TMK Ettappan Raja, Thangasamy, Jeyaraman and Sampath Udhayakumar respectively. Later, TMK Ettappan Raja passed away in the year 1985, following which an oral partition deed was effected in the name of family arrangement among the legal heirs of TMK Ettappan Raja in the year 1988, wherein the properties settled by TMK



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Ettappan Raja earlier on 20.01.1985, vide settlement deeds bearing Document Nos.63, 64 and 65 of 1985 were allotted to Thangasamy. In this regard, a civil suit in OS No.9 of 2018 was also filed before the learned II Additional District Judge, Tuticorin by the said Thangasamy, as against the beneficiaries of the aforesaid settlement deeds and the same was decreed in favour of the said Thangasamy. During the pendency of investigation, Thangasamy had passed away and his brother, namely Jeyaraman, second respondent herein had given his statement as LW1 to the first respondent.

6. The learned counsel appearing for the second respondent further submitted that on 12.07.2018, Thangasamy lodged a complaint against the petitioners and four others, alleging that they had committed forgery and created the settlement deeds bearing Document Nos. 63, 64 and 65 of 1985. It is further alleged that the first petitioner executed a settlement deed in favour of her husband, the second petitioner, vide Settlement Deed bearing Document No. 2750 of 2016, purportedly on the basis of the forged settlement deeds (Nos. 63, 64 and 65 of 1985) and a forged unregistered Will, also bearing Document No. 2750 of 2016, allegedly executed by Sampath Udhayakumar Pandian in favour of the first petitioner. The same culminated in laying the final report as against A1, A2 & A6 and by deleting A3 to A5. There is no infirmity in the



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investigation, that the same has been conducted in a proper manner, and therefore, the present petition is liable to be dismissed.

7. In reply, the learned counsel appearing for the petitioners categorically contended that the petitioners have not challenged the validity of the settlement deeds bearing Document Nos. 63, 64 and 65 of 1985, nor the unregistered Will stated to have been executed in favour of the first petitioner. The complaint lodged by the deceased Thangasamy did not disclose the commission of any cognizable offence and, therefore, would not constitute a valid ground for registration of a criminal case as against the petitioners.

8. The learned counsel for the petitioners further drew my attention to the judgment and decree passed by the II Additional District Judge, Tuticorin in OS No.9 of 2018 and categorically contended that the said decree is only with respect to 1 acre and 2 cents situated in Ettayaapuram Village. He also drew the attention of this Court to the fact that the details relating to the survey number are conspicuously absent in the schedule of property in the aforesaid suit. In response, the learned counsel appearing for the second respondent submitted that even in the original registered partition deed of the year 1959, no survey number had been mentioned.



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9. The learned counsel appearing for the petitioners categorically contended that the suit property in OS No.9 of 2018 is only with respect to 1 acre and 2 cents. However, the subject property of the settlement deeds bearing document Nos.63 64, 65 of 1985 comprises a larger extent, for which he drew my attention to the settlement deed bearing document No.64 of 1985, in which a vast area of 18 acres and 1 cent has been shown as the total extent, in which 40 cents had been registered / settled in favour of Sampath Udhayakumar Pandian.

10. The learned counsel appearing for the second respondent defending the petitioner's claim pointed out that, they had never utilised unregistered will executed by Sampath Udhayakumar Pandian in favour of the first petitioner in the suit. That apart, another civil suit was laid by Jeyaraman, who is none other than the brother of Sampath Udhayakumar Pandian and Thangasamy in OS No. 69 of 2016 on the file of the II Additional District Judge, Tuticorin for declaration and injunction. The said suit was with respect to certain property belonging to the plaintiff in the aforesaid suit, namely Jeyaraman, who has been allotted with the 3rd schedule property in 1959 registered partition deed and the suit was with respect to the execution of the settlement deed bearing Document



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No.2750 of 2016 by the 1st petitioner in favour of the 2nd petitioner including certain certain properties of Jeyaraman. In the suit, the petitioners have utilized the unregistered will and produced in Court. For which, the learned counsel appearing for the petitioners submitted that a careful reading of the final report would make it clear that the aforesaid suit has not been referred to in any part of the final report and that there is no whisper with regard to O.S. No. 69 of 2016 in the said final report.

11. The learned Government Advocate appearing for the respondent police categorically contended that though the settlement deeds have been executed by TMK Ettappan Raja in favour of Sampath Udhayakumar Pandian vide settlement deeds bearing in Document No.63, 64, 65 of 1985, later after his death, a family arrangement was entered into among all the legal heirs of TMK Ettappan Raja. When a family arrangement had been entered into among all the parties, including Sampath Udhayakumar Pandian, the settlement deeds bearing Document Nos. 63, 64 and 65 of 1985 ought not to have been given effect to. However, the first petitioner/A1, without taking into consideration the said family arrangement, proceeded to execute a gift deed in favour of the second petitioner/A2, placing reliance solely upon a Will said to have been executed by his father. Hence, the charge sheet has been laid against the



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petitioners and another, for the offences punishable under Sections 468. 471 & 420 of IPC.

12. Heard the learned counsel for the petitioners and the second respondent and the learned Government Advocate and carefully perused the materials available on records.

13. A careful perusal of the final report would reveal that there is no whisper about the suit in OS No. 69 of 2016 on the file of the II Additional District Judge, Tuticorin. Section 468 of IPC deals with forgery for the purpose of cheating. Forgery is defined in Section 463 of IPC making a false document, which is defined in Section 464 of IPC. Sections 463 and 464 are extracted as follows:-

“Section 463, Forgery:-

Whoever makes any false document or false electronic record or part of a document or electronic record, with intent to cause damage or injury], to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Section 464. Making a false document:-

[A person is said to make a false document or false electronic record—

First.—Who dishonestly or fraudulently—



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(a) makes, signs, seals or executes a document or part of a document;

(b) makes or transmits any electronic record or part of any electronic record;

(c) affixes any 2 [electronic signature] on any electronic record;

(d) makes any mark denoting the execution of a document or the authenticity of the 2 [electronic signature], with the intention of causing it to be believed that such document or part of document, electronic record or 2 [electronic signature] was made, signed, sealed, executed, transmitted or affixed by or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, executed or affixed; or

Secondly.—Who without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document or an electronic record in any material part thereof, after it has been made, executed or affixed with 2 [electronic signature] either by himself or by any other person, whether such person be living or dead at the time of such alteration; or

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute or alter a document or an electronic record or to affix his 2 [electronic signature] on any electronic record knowing that such person by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him, he does not know the contents of the document or electronic record or the nature of the alteration.] ”

14. A careful reading of the aforesaid definitions would make it clear that the offences under Sections 463, 464 and 468 of IPC cannot be made out as against a person who has not made any false documents. The offences under Sections 463, 464 and 468 of IPC can be made out only as against the person, who had actually made a false document.



15. In the instant case, the settlement deeds bearing document Nos.63, 64 & 65 of 1985 and the unregistered will has though been alleged to be forged, the same was not obviously made by the petitioners herein. But the same were claimed to have been executed by one Sampath Udhayakumar Pandian.

16. Section 471 of IPC is with respect to the offence of using as genuine as forged document or electrical record. Section 471 is extracted as follows:-

“471. Using as genuine a forged document or electronic record.—
Whoever fraudulently or dishonestly uses as genuine any 3 [document or electronic record] which he knows or has reason to believe to be a forged 3 [document or electronic record], shall be punished in the same manner as if he had forged such 3 [document or electronic record].”

17. Section 420 of IPC is the offence of cheating. Section 420 is extracted as follows:-

“420. Cheating and dishonestly inducing delivery of property.—
Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

18. A careful reading of the aforesaid sections would make it clear that only when a person has dishonestly induced another person to deliver any property to any other person, the offence of cheating would be made out here.



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19. It is also brought to the notice of this Court by the learned counsel for the petitioners that the siblings of the first petitioner namely Padmini, Iswarya Lakshmi & Selvan Surya Rajkumar have already filed an affidavit before this Court stating that originally, the defacto complainant, S/o. TMK Ettappan Raja had alleged that his brother, late Sampath Udhayakumar Pandian had received three registered settlement deeds in Document Nos.63, 64 & 65 of 1985 directly from TMK Ettappan Raja. Based on the aforesaid settlement deeds, a fabricated will was also created on 10.05.2005, which is now disputed by the 2nd respondent as if it was put against him in a pending civil suit in OS No.69 of 2016 on the file of the II Additional District Judge, Tuticorin.

20. The affidavit categorically puts forth that it is purely a civil dispute over the properties of TMK Ettappan Raja between the legal heirs of the first and second wife of the said TMK Ettappan Raja. Admittedly, the deceased defacto complainant was born through the first wife of TMK Ettappan Raja along with the second respondent and two others. Whereas Sampath Udhayakumar Pandian was born through the second wife of TMK Ettappan Raja, namely, Kamalambigai and the affidavit further claims that there is no criminal act or fabrication of document as alleged in the FIR in Crime No.13 of



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2018. Further, it is also substantiated that through Jeyaraman, who is barred by limitation, is now trying to open a Pandora's box by opening up a can of worms by giving a criminal color to a civil dispute.

21. The Hon'ble Supreme Court in the case of ***Sheila Sebastian vs. R.Jawaharaj & Another*** reported in ***2018 (7) SCC 581*** has categorically held that making up a document is different from causing it to be made. It is imperative that a false document has to be made and only when a person is the maker of the same, he can be implicated as an accused for the offence of forgery. If the accused person is not the maker of the document, he cannot be made liable for the offence of forgery.

22. In the instant case, when the claim of the second respondent that the document itself is forged cannot be sustained, the offence of cheating under Section 420 of IPC automatically goes.

23. The Hon'ble Supreme Court in the case of ***Mohammed Ibrahim and Others vs. State of Bihar & Another*** reported in ***2009 (8) SCC 751*** has held that criminal proceedings cannot be permitted to be misused as a means for settling personal scores or for pressurizing parties to settle civil disputes.



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24. It is needless to state that this is a clear civil case, where a dispute with respect to the property settled by TMK Ettappan Raja in favour of his son Sampath Udhayakumar Pandian has arisen. The unregistered will executed by Sampath Udhayakumar Pandian in favour of the first petitioner has given rise to umpteen number of civil disputes for which the second respondent is trying to give a criminal color.

25. In view of the aforesaid observations, the aforesaid alleged offences have not been attracted as against the petitioners herein. Accordingly, the impugned CC No.890 of 2022 on the file of the Judicial Magistrate No.IV, Thoothukudi dated 22.07.2022 is hereby quashed insofar as the petitioners herein. This criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

19.01.2026

NCC : Yes / No
Index : Yes / No
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TO:-

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1. The Inspector of POlice,
District Crime Branch,
Thoothukudi.
- 2.The Judicial Magistrate No.IV, Thoothukudi.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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Order made in
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Dated
19.01.2026