



Crl.OP(MD)No.19192 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.19192 of 2025

and

Crl.M.P.(MD)No.16011 of 2025

Arockiasami

... Petitioner/Accused No.2

Vs.

1. The State of Tamilnadu
Rep. by the Inspector of Police,
DCB,
Sivagangai District.
In Crime No. 17 of 2020.

... 1st Respondent / Complainant

2. Kannan

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records of the impugned charge sheet in C.C.No.313 of 2022 on the file of the learned Judicial Magistrate No.I, Sivagangai, and quash the same in so far as the petitioner is concerned.



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For Petitioner : Mr.G.Prabhu Rajadurai,
For Mr.K.Vinoharan
For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)
For R-2 : Mr.N.Karthikkanna

ORDER

Prologue:

The inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Santa, 2023, equivalent to the erstwhile Section 482 Cr.P.C., is intended not merely as a procedural safeguard, but as a constitutional sentinel against misuse of criminal law. Criminal prosecution cannot be permitted to degenerate into a coercive weapon in matters which are fundamentally civil in complexion, unless the indispensable ingredients of criminality are demonstrably present from the inception.

2. The present petition presents yet another instance where a failed property transaction, accompanied by subsequent dissatisfaction regarding identification of land, has been sought to be transformed into a prosecution for offences of cheating, criminal breach of trust, conspiracy and intimidation. This Court is therefore

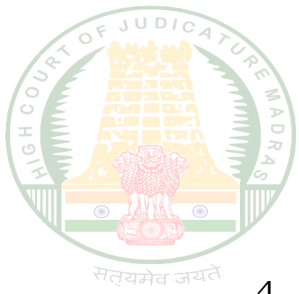


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called upon to determine whether the allegations contained in the final report truly disclose the ingredients of the offences alleged or whether the criminal process is being employed to settle what is essentially a civil dispute arising out of a sale transaction.

Case of the prosecution:

3. The prosecution case, as discernible from the final report, is that the deceased first accused, namely Arulsamy, was the owner of a property situated in Survey No.63/3. According to the *de facto* complainant, the accused persons represented that a particular parcel of land shown to him would be sold to him and thereafter executed a registered sale deed in Document No.3034 of 2018. It is the further allegation of the prosecution that after purchase of the property, when the *de facto* complainant visited the land for cleaning and enjoyment, certain third parties informed him that the land shown to him actually pertained to Survey No.54/2 and that the property covered under the sale deed in Survey No.63/3 was situated elsewhere.



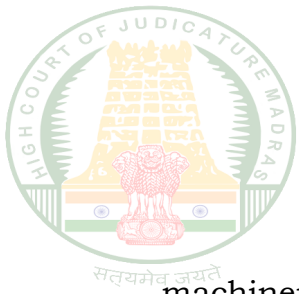
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4. Based on the above allegation, the prosecution alleges that the accused persons intentionally showed one property and executed a sale deed in respect of another property, thereby cheating the *de facto* complainant and causing wrongful loss to him. It is further alleged that when the *de facto* complainant questioned the petitioner and his deceased father regarding the discrepancy, they threatened him with dire consequences and informed him that the land purchased by him was of insignificant value.

5. On the basis of the said allegations, the respondent police laid a final report for the offences under Sections 406, 420, 294(b), 506(i) and 120(b) IPC corresponding to Sections 316(2), 318(4), 296(b), 351 and 61(2) of the Bharatiya Nyaya Sanhita, arraying the deceased father as A-1, the petitioner as A-2 and the mediator to the transaction as A-3.

Grounds for quash:

6. The learned counsel appearing for the petitioner submitted that the petitioner herein is the 2nd accused before the learned Trial Court and the entire prosecution is a misuse of the criminal justice



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machinery in order to convert a purely civil dispute into a criminal case. The learned counsel submitted that the petitioner is merely the son of the deceased vendor and is a Government School Teacher having absolutely no role in the transaction. He is neither a signatory to the sale deed nor a beneficiary under the transaction.

7. It was further contended that the property conveyed under the registered sale deed was genuinely owned by the deceased first accused and the boundaries, measurements and survey particulars contained in the document correspond to the property sold. The learned counsel would further submit that the *de facto* complainant, after having voluntarily purchased the property under a registered instrument, cannot after a lapse of nearly two years, raise allegations of cheating merely on the ground that another property had allegedly been shown to him.

8. The learned counsel particularly attacked the investigation by referring to the observation mahazar and FMB sketch, contending that the investigating agency artificially attempted to portray Survey Nos.54/2 and 63/3 as adjacent lands though they are admittedly



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situated far apart. The learned counsel further contended that the principle of caveat emptor squarely applies to the facts of the present case. According to him, any prudent purchaser is expected to verify the survey number, boundaries, title and physical identity of the property with the assistance of a surveyor prior to purchase.

9. It was also argued that even assuming the allegations to be true in entirety, the materials collected during investigation do not disclose dishonest intention from inception, which is the *sine qua non* for constituting an offence under Section 420 IPC. The learned counsel placed reliance upon the decision of the Hon'ble Supreme Court in ***Mohammed Ibrahim v. State of Bihar***¹ and submitted that a mere dispute regarding title or conveyance of property does not *ipso facto* constitute the offence of cheating or forgery.

10. The learned counsel also drew the attention of this Court to the witness statements and contended that none of the independent witnesses had stated that one property was shown and another property was sold. According to him, the witness statements rather probalilise the defence case. The learned counsel finally

¹ 2009 (8) SCC 751



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submitted that continuation of the prosecution against the petitioner, who is not even a party to the sale deed, would amount to abuse of process of Court.

11. Per contra, the learned Government Advocate submitted that the materials collected during investigation clearly disclose that the *de facto* complainant was induced to purchase the property by showing a different parcel of land. The learned Government Advocate submitted that immediately after purchase, when the *de facto* complainant visited the property, third parties asserted ownership over the land shown to him, thereby exposing the deception allegedly practised by the accused persons.

12. According to the prosecution, the accused persons deliberately represented Survey No.54/2 as though it was Survey No. 63/3 and thereby induced the *de facto* complainant to part with money. The learned Government Advocate would therefore submit that the ingredients of cheating are clearly attracted and the disputed questions of fact cannot be adjudicated in proceedings under Section 528 BNSS. The learned Government Advocate further



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submitted that the stage of trial has already commenced and therefore this Court ought not to interfere with the prosecution at this advanced stage.

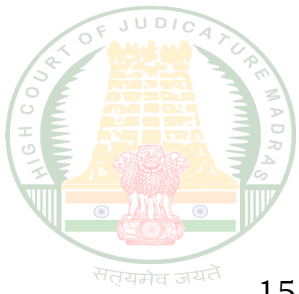
Point for consideration:

13. In the above factual backdrop, the following point arises for consideration:-

“Whether the allegations contained in the final report, even if accepted in entirety, disclose the essential ingredients of the offences alleged against the petitioner/A-2 so as to warrant continuation of the criminal prosecution?”

Analysis:

14. At the outset, this Court is conscious of the settled principle that the inherent jurisdiction under Section 528 BNSS is to be exercised sparingly and with circumspection. However, when the allegations do not satisfy the foundational ingredients of criminal offences and the prosecution appears manifestly attended with mala fide or civil overtones, this Court cannot remain a silent spectator.

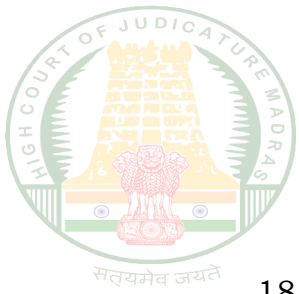


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15. The gravamen of the prosecution allegation is that one property was shown while another property was sold under the registered document. However, it is an admitted fact that the deceased first accused was indeed the owner of the property conveyed under the sale deed. Equally significant is the fact that the sale deed contains specific survey particulars, boundaries and measurements.

16. The dispute therefore fundamentally concerns identification of property and alleged mismatch between the land shown and the land conveyed. Such disputes ordinarily fall within the domain of civil adjudication requiring survey, title verification, evidence regarding possession and interpretation of boundaries.

17. To attract the offence of cheating, there must exist dishonest intention at the inception of the transaction. Mere subsequent dissatisfaction or failure of expectation does not constitute cheating. In the present case, the materials placed before this Court do not *prima facie* disclose any fraudulent or dishonest inducement attributable to the petitioner.



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18. More importantly, the petitioner is not even the executant of the sale deed. Except the bald allegation that the petitioner was involved in a conspiracy with his deceased father, there is absolutely no material demonstrating participation, inducement or active role on the part of the petitioner.

19. The independent witness statements referred to by the learned counsel for the petitioner also do not unequivocally support the prosecution allegation that a different property was shown. The Hon'ble Supreme Court in ***Mohammed Ibrahim v. State of Bihar***² has categorically held that every breach relating to immovable property transactions cannot be criminalised and that criminal prosecution cannot be permitted in the absence of fraudulent intention from inception. Applying the said principle, this Court finds that the foundational ingredient of dishonest intention at inception is conspicuously absent insofar as the petitioner is concerned.

20. To constitute criminal breach of trust, there must be entrustment and dishonest misappropriation. The prosecution materials do not disclose any entrustment whatsoever in favour of

² Supra 1



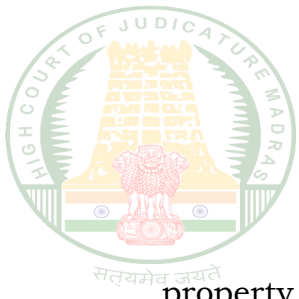
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the petitioner. The sale consideration admittedly arose out of a concluded sale transaction under a registered document. Hence, the offence under Section 406 IPC is wholly unsustainable.

21. The allegation of conspiracy is completely bald and omnibus in nature. Except a vague allegation that the petitioner acted along with his deceased father, there is no material showing any meeting of minds or concerted criminal design. It is trite that conspiracy cannot be inferred merely on suspicion or relationship.

22. The allegations relating to intimidation are also vague and bereft of particulars. No specific overt act attributable to the petitioner is discernible from the final report. Mere expression of anger or exchange of words in the context of a property dispute cannot automatically constitute criminal intimidation unless there exists real intention to cause alarm.

23. This Court also finds considerable force in the submission advanced by the learned counsel for the petitioner regarding the principle of caveat emptor. In transactions involving immovable

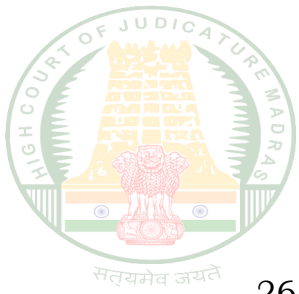


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property, a purchaser is expected to exercise reasonable diligence regarding survey particulars, title and physical identity of the property.

24. The *de facto* complainant admittedly purchased the property under a registered instrument after having opportunity to verify the land and its particulars. Whether he was shown a different property, whether there was confusion regarding survey numbers, and whether the land conveyed corresponds to the land intended are all matters requiring civil adjudication and evidentiary appreciation. Criminal law cannot be invoked as a substitute for civil remedies merely because the purchaser subsequently becomes dissatisfied with the transaction.

25. The petitioner is neither the owner nor executant of the sale deed. His implication appears to be solely on account of his relationship with the deceased first accused. Permitting the prosecution to continue against such a person, in the absence of any specific overt act or material establishing criminal intent, would amount to permitting abuse of process of Court.



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26. The present case therefore squarely falls within the categories illustratively enumerated in ***State of Haryana v. Bhajan Lal***³ warranting interference under the inherent jurisdiction of this Court.

Epilogue:

27. Criminal law is a solemn instrument intended to redress genuine criminal wrongs. It cannot be allowed to become a pressure tactic in private property disputes. The distinction between a civil wrong and a criminal offence, though occasionally thin, cannot be obliterated by mere drafting ingenuity in a complaint.

28. Courts must remain vigilant to ensure that criminal prosecution does not become a weapon of harassment against persons against whom no foundational criminality is disclosed. In the considered opinion of this Court, continuation of the prosecution against the petitioner would amount to abuse of process of law.

29. Accordingly, this Criminal Original Petition stands **allowed**. The proceedings in C.C.No.313 of 2022 on the file of the

³ 1992 Supp(1) SCC 335



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learned Judicial Magistrate No.I, Sivagangai, are hereby quashed insofar as the petitioner/A-2 is concerned. Consequently, connected miscellaneous petitions, if any, stand closed.

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Judicial Magistrate No.I,
Sivagangai.
- 2.The Inspector of Police,
DCB,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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