



Crl.OP(MD)No.21265 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.21265 of 2025

and

Crl.M.P.(MD).No.18238 and 18242 of 2025

Velraj

Petitioner/Sole Accused

Vs.

1. The State of Tamil Nadu,
Represented by its
The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
(Crime No. 32/2024)

.... Respondent / Complainant

2. Dharmaraj

.... Respondents /
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the Final Report in C.C.No.1600 of 2025 on the file of the learned Judicial Magistrate VI, Madurai, in Cr.No.32 of 2024 dated 18.01.2024 on the file of the respondent No.1 and quash the same as illegal.

For Petitioner : Mr.T.Seeni Syed Amma
For M/s.Roy and Roy Associates



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For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C.), to call for the records pertaining to the final report in C.C.No.1600 of 2025 on the file of the learned Judicial Magistrate–VI, Madurai, arising out of Crime No.32 of 2024 dated 18.01.2024 on the file of the first respondent police, and to quash the same as illegal.

Preface:

2. The petitioner is the sole accused in C.C.No.1600 of 2025, pending on the file of the learned Judicial Magistrate–VI, Madurai, arising out of Crime No.32 of 2024 registered on 18.01.2024. The final report alleges commission of offences under Sections 406 and 420 IPC (corresponding to Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023).



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3. The petitioner seeks quashment of the final report contending that the dispute is purely civil/money transaction and that a civil suit O.S.No.12 of 2020 (filed by the petitioner against the second respondent) ended in petitioner's favour and that the ingredients of Sections 406 and 420 are not made out.

Case of the prosecution:

4. The prosecution case, as reflected in the complaint, FIR, statements recorded during investigation (including the statement under Section 161 Cr.P.C., 1973), and the final report, is that the second respondent/*de facto* complainant paid an aggregate sum of Rs.8,13,000/- to the petitioner on various occasions on the representation that the petitioner would sell certain plots/land stated to be in the petitioner's name.

5. It is the further case of the prosecution that, the petitioner had already obtained bank loans and mortgaged the property/properties which were promised to be sold to the *de-facto* complainant. And that on suppression of such fact, the petitioner induced the *de facto* complainant to part with money and thereafter



failed to execute the sale and did not return the money, thereby committing criminal breach of trust and cheating.

Case of the petitioner / grounds for quash:

6. The petitioner contends that there was no entrustment, no formal sale agreement, and that the complaint is a retaliatory step after the petitioner succeeded in O.S.No.12 of 2020 against the *de facto* complainant. It is also urged that the alleged transaction is said to be of the year 2019, whereas the FIR was lodged only on 18.01.2024, after about five years.

7. The petitioner placed reliance on the decision of the Hon'ble Supreme Court in ***Delhi Race Club (1940) Ltd. v. State of U.P.*¹**, to contend that in the absence of entrustment, Section 406 cannot be attracted and further that, on the facts, the dispute is at best contractual/civil and does not disclose the offence of cheating. The petitioner also invoked the principles in ***State of Haryana v. Bhajan Lal*²**, contending that the case falls within the categories warranting interference under inherent jurisdiction.

¹ (2024) 10 SCC 690

² 1992 Supp (1) SCC 335



Submissions:

8. The learned counsel for the petitioner submitted that the final report itself shows the dispute to be essentially a money transaction arising from alleged non-execution of sale and that the petitioner had already obtained a civil decree in O.S.No.12 of 2020 against the *de facto* complainant. The learned counsel insisted that the criminal case is an abuse of process and that both Sections 406 and 420 are unsustainable and will not get along together. The learned counsel laid particular emphasis on the proposition that Section 406 requires “entrustment” and that, even otherwise, the facts do not show dishonest intention at inception.

9. The learned Additional Public Prosecutor submitted, on instructions, that the statement under Section 161 Cr.P.C., 1973, and investigation materials disclose that the petitioner suppressed the fact of mortgage and promised sale in plots and that such suppression and inducement constitute cheating. He further categorically contended that, at the least, Section 420 is clearly made out. The learned Government Advocate (Crl. side) fairly submitted that Section 406 may not stand on the present



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allegations, but opposed quashment insofar as Section 420 is concerned.

10. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for determination:

11. The point that arises for consideration is whether the final report in C.C.No.1600 of 2025 is liable to be quashed in exercise of inherent jurisdiction under Section 528 BNSS (Section 482 Cr.P.C.), either wholly or in part, for the offences under Sections 406 and 420 IPC (Sections 316(2) and 318(4) BNS, 2023)?

Analysis:

12. The inherent power is to be exercised sparingly to prevent abuse of process and to secure ends of justice. At the stage of quashment, this Court can not conduct a mini trial, however, if the uncontroverted allegations and materials do not disclose the ingredients of the alleged offences, interference is warranted. The essential ingredient for criminal breach of trust is entrustment of



property (or dominion over property) and dishonest misappropriation/conversion in violation of the entrustment.

13. In the case on hand, the gravamen of accusation is that the complainant paid money to the petitioner towards proposed purchase of plots/land, and the petitioner failed to execute sale and did not return the money. Even accepting the prosecution version at face value, the materials primarily speak to an alleged inducement to pay money and non-performance/non-refund. The final report does not disclose a foundational “entrustment” of property in the manner known to law for Section 406.

14. The Hon'ble Supreme Court in **Delhi Race Club (1940) Ltd. v. State of U.P.**³ has reiterated the distinction between mere breach/contractual disputes, cheating and criminal breach of trust, and has held that in the absence of entrustment, Section 406 cannot be sustained on such allegations. Therefore, this Court is of the view that the continuation of prosecution for Section 406 IPC / Section 316(2) BNS would be an abuse of process and deserves to be quashed.

³ (2024) 10 SCC 690



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15. For cheating, what is relevant is whether there are allegations/materials to indicate dishonest intention at the inception, i.e., at the time of inducement, and whether the complainant was deceived to part with property/money.

16. The prosecution specifically asserts suppression of the mortgage and a false representation that the petitioner could convey the plots, leading the complainant to part with money. Such allegations, if ultimately proved, may constitute the offence of cheating. At this stage, this Court cannot embark upon appreciation of whether the mortgage, the representation, the complainant's knowledge, the nature of arrangement, and the intent at inception are established, those are matters for trial.

17. The petitioner's reliance on the civil decree in O.S.No.12 of 2020 may be a relevant circumstance, however, a civil adjudication, by itself, does not *ipso facto* nullify a criminal prosecution when the ingredients of cheating are *prima facie* disclosed. The decree and findings in the civil suit are matters that can be urged before the



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learned Trial Court, both at the stage of discharge (if permissible in law) and during trial.

18. As regards delay (transaction stated to be of 2019 and FIR in 2024), delay is one of the circumstances to be evaluated. However, delay by itself does not automatically wipe out the offence under Section 420 if the materials disclose deception and inducement. In any event, limitation issues are not attracted in the manner suggested, and the merits of the explanation for delay are best left to be tested at trial. Hence, this Court is not persuaded to quash the proceedings insofar as Section 420 IPC / Section 318(4) BNS is concerned.

19. Considering that the matter shall proceed for the offence under Section 420 IPC, the petitioner's personal appearance is dispensed with subject to the following conditions:

a) The petitioner shall be represented by counsel on all hearing dates.

b) The petitioner shall appear in person as and when directed by the learned Trial Court, including for furnishing copies,



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questioning under Section 313 Cr.P.C., 1973, (as applicable), and at the time of judgment.

c) If the petitioner adopts dilatory tactics or fails to comply with any condition, the learned Trial Court is at liberty to insist upon personal appearance and proceed in accordance with law

20. The inherent jurisdiction is meant to prevent abuse of process, not to short-circuit a legitimate prosecution. Where the material does not disclose the essential ingredient of “entrustment”, continuance of Section 406 cannot be sustained. At the same time, allegations of deception and inducement, supported by investigation materials, require adjudication in trial for the offence of cheating.

21. In the result, this Criminal Original Petition is partly allowed.

22. The proceedings in C.C.No.1600 of 2025 on the file of the learned Judicial Magistrate–VI, Madurai, arising out of Crime No.32 of 2024 dated 18.01.2024, are quashed insofar as the offence under



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Section 406 IPC (corresponding to Section 316(2) BNS, 2023) is concerned.

23. The Criminal Original Petition is dismissed insofar as the offence under Section 420 IPC (corresponding to Section 318(4) BNS, 2023) is concerned, and the trial shall proceed for the said offence in accordance with law.

24. The petitioner is permitted to raise all his defences including the effect of the decree in O.S.No.12 of 2020, the nature of transaction, and absence of dishonest intention at inception, before the trial Court. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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To
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- 1.The Judicial Magistrate VI,
Madurai.
- 2.The Inspector of Police,
Anna Nagar Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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