



Crl.OP(MD)No.23243 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.23243 of 2025**

**and**

**Crl.M.P.(MD).No.20153 of 2025**

A. Muthu

... Petitioner/Accused No.2

**Vs.**

1. State of Tamilnadu Rep by,  
the Inspector of Police,  
Thirumangalam Town,  
Madurai District.  
Crime No.371 of 2025.

.... 1<sup>st</sup> Respondent / Complainant

2. Venkatesh,

.... 2<sup>nd</sup> Respondent /  
*De-facto Complainant*

**Prayer:** Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in FIR in Crime No.371 of 2025 on the file of the 1<sup>st</sup> respondent and quash the same in respect of the petitioner.

For Petitioner : Mr.D.S.Haroon Rasheed

For R-1 : Mr.M.Sakthi Kumar,  
Government Advocate (Crl. Side)



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**ORDER**

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records relating to the FIR in Crime No.371 of 2025 on the file of the first respondent police, registered for the alleged offences under Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023 (corresponding to Sections 406 and 420 of IPC), and to quash the same insofar as the petitioner / Accused No.2 is concerned.

***Preface:***

2. The inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, is invoked to prevent abuse of the process of law and to secure the ends of justice. While the power to quash criminal proceedings is to be exercised sparingly, it is equally well-settled that when the allegations, even if taken at face value, do not disclose the commission of any offence against a particular accused, compelling such person to undergo the rigours of criminal investigation would itself amount to miscarriage of justice.



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3. The present Criminal Original Petition presents one such instance where an employee, with no independent role, intention, or benefit, has been arrayed as an accused merely by virtue of his employment under the principal accused.

***Case of the prosecution:***

4. The case of the prosecution, as borne out from the First Information Report, is that the second respondent / *de facto* complainant is working as a Superintendent in the Regulation Shop of the Agricultural Sale Department at Thirumangalam, Madurai. On 03.09.2025 at about 4.00 p.m., the first accused, namely Mohammed Kadhar, proprietor of “Barakath Traders” situated at Pudhuvayal, Karaikudi Taluk, Sivagangai District, approached the *de facto* complainant for the purchase of paddy, namely “Atchaya Paddies”, at the rate of Rs.22/- per kilogram.

5. It is alleged that the first accused purchased 4,410 kilograms of paddy, for which a total sum of Rs.97,991/-, including market fee payable to the Government, became due. A cheque for the



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said amount was issued by the third accused through the petitioner, who was stated to be the accountant of the first accused.

6. Subsequently, on 04.09.2025 at about 3.00 p.m., the first accused again purchased “Jothi Mattai Paddies” weighing 28,220 kilograms at the rate of Rs.22.50 per kilogram, amounting to Rs. 6,41,300/-. In respect of this transaction, two cheques were issued, one for Rs.3,00,000/- by the third accused and another for Rs. 3,41,300/- by the fourth accused, allegedly handed over through a lorry driver.

7. The FIR further alleges that the cheques, when presented for collection, were returned unpaid on the grounds of “signature differs” and not on the ground of insufficiency of funds. It is stated that despite repeated demands, only a sum of Rs.1,00,000/- was paid on 16.09.2025 and the remaining amount of Rs.6,13,291/- remained unpaid.

8. Alleging dishonest intention on the part of the accused persons, the *de facto* complainant lodged a complaint, based on



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which the impugned FIR in Crime No.371 of 2025 came to be registered for the offences under Sections 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023.

***Case of the petitioner:***

9. The petitioner is arrayed as Accused No.2. The specific case of the petitioner is that he is only an employee of the first accused and was working as an accountant on a monthly or daily wage basis. It is contended that the petitioner is neither the purchaser of the paddy nor the drawer or signatory of any cheque. Admittedly, all the cheques were issued only by Accused Nos.3 and 4, and the petitioner had merely handed over the cheques as instructed by his employer.

10. It is further submitted that the petitioner did not derive any pecuniary benefit from the transaction and had no dominion over the goods or the funds. The FIR itself acknowledges the status of the petitioner as an employee. According to the petitioner, the essential ingredients of criminal breach of trust and cheating, namely dishonest intention from inception, are conspicuously absent



insofar as he is concerned. Hence, his implication in the criminal case is nothing but an abuse of process of law.

***Grounds for quash:***

11. The petitioner relies upon the well-settled principles laid down by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***<sup>1</sup>, particularly category No.1, wherein it is held that criminal proceedings can be quashed where the allegations, even if taken at face value, do not constitute any offence.

12. Reliance is also placed on ***Neelu Chopra v. Bharti***<sup>2</sup>, wherein the Hon'ble Apex Court has held that vague and omnibus allegations, without specific role attribution, are insufficient to sustain criminal prosecution. It is contended that the FIR does not disclose any dishonest or fraudulent intention on the part of the petitioner, which is a *sine qua non* for offences under Sections 406 and 420 IPC (corresponding Sections 316(2) and 318(4) BNS).

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<sup>1</sup> 1992 Supp (1) SCC 335

<sup>2</sup> (2010) 1 SCC 286



**Submissions:**

13. The learned counsel for the petitioner submitted that the petitioner is merely an accountant of Accused No.1 and had acted strictly under instructions. The FIR itself does not attribute any overt act except delivery of cheques. It was argued that non-payment of sale consideration or dishonour of cheques, at best, gives rise to a civil dispute or proceedings under the Negotiable Instruments Act, 1881, and cannot automatically attract penal provisions, much less against an employee. It was further submitted that forcing the petitioner to face criminal proceedings would amount to abuse of process of law, especially when no *mens rea* can be attributed to him.

14. The learned Government Advocate (Crl. side) opposed the petition contending that the petitioner, being the accountant, was aware of the financial status of the firm and also of the genuineness of the cheques. According to the prosecution, the *de facto* complainant acted on the representation made by the petitioner, who introduced himself as the accountant, and therefore, the petitioner cannot completely disown responsibility.



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

***Point for consideration:***

16. The point that arises for consideration is whether the continuation of criminal proceedings in Crime No.371 of 2025 against the petitioner / Accused No.2 would amount to abuse of process of law, warranting interference under Section 528 BNSS?

***Analysis:***

17. At the outset, it is to be noted that the FIR itself categorically describes the petitioner as an accountant employed under the first accused. There is no allegation that the petitioner was the beneficiary of the transaction or that he had any independent role in inducing the *de facto* complainant. For an offence of cheating under Section 420 IPC or criminal breach of trust under Section 406 IPC, the existence of dishonest intention at the inception of the transaction is mandatory. Mere delivery of a cheque, without being the drawer or signatory, cannot by itself constitute such intention.



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18. The petitioner neither purchased the paddy nor issued the cheques in his individual capacity. The cheques admittedly emanated from Accused Nos.3 and 4. The petitioner acted only as a conduit, in his capacity as an employee.

19. The Hon'ble Supreme Court has repeatedly cautioned against criminalising purely civil disputes and has held that criminal law cannot be set in motion to settle scores arising out of contractual obligations, particularly against persons who are not primary actors. Even assuming the prosecution allegations to be true in entirety, no ingredients of Sections 316(2) or 318(4) BNS are made out against the petitioner. His implication appears to be solely on account of his employment, which is legally impermissible.

20. Continuation of investigation against the petitioner, in the absence of any *prima facie* material, would therefore amount to unnecessary harassment and abuse of process of law. Criminal law must not be used as a tool of oppression. Employees and functionaries acting under instructions cannot be mechanically



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arrayed as accused unless their independent criminal intent is *prima facie* established.

21. This Court is conscious of the need to allow investigation to proceed against the principal offenders. However, dragging an employee into criminal proceedings, without any substantive role or *mens rea*, would defeat the very purpose of fair investigation. The inherent powers of this Court exist precisely to prevent such misuse and to ensure that justice is not sacrificed at the altar of technicality.

22. In the result, this Criminal Original Petition is allowed. The FIR in Crime No.371 of 2025 on the file of the first respondent police is quashed insofar as the petitioner / Accused No.2 alone is concerned. It is made clear that the investigation may proceed in accordance with law against the other accused persons.

**02.01.2026**

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



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- To
- 1.The Inspector of Police,  
Thirumangalam Town,  
Madurai District.
  - 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**L.VICTORIA GOWRI, J.**

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