



CrI.R.C.No.1471 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 05.03.2026

PRONOUNCED ON : 16.03.2026

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.R.C.No.1471 of 2023

S.Maruvappan ... Petitioner

vs

1.S.Saravanan
2.S.Mohanasundaram
3.S.Singaravelu ... Respondents

Prayer: Criminal Revision is filed under Section 397 read with 401 of Code of Criminal Procedure, to call for the records in CrI.M.P.No.2351 of 2022 in C.C.No.88 of 2015 on the file of the leaned Chief Judicial Magistrate, Puducherry and set aside the order dated 20.06.2022 passed in CrI.M.P.No.2351 of 2022 in C.C.No.88 of 2015.

For petitioners : Mr.B.A.Sujay Prasanna
for Mr.R.Bhaskar

For R1 : Mr.M.R.Elavarasan
for Mr.K.Balu

For R2 : Mr.R.Thiagarajan

For R3 : Mr.Govind Chandrasekar



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ORDER

WEB COPY This Criminal Revision Case has been filed challenging the order dated 20.06.2022 passed in Crl.M.P.No.2351 of 2022 in C.C.No.88 of 2015 on the file of the Chief Judicial Magistrate, Puducherry, thereby discharged the respondents herein/A1, A2 & A4 from all the charges.

2. The petitioner lodged a complaint before the Superintendent of Police, Pondicherry (North) on 10.04.2010, alleging that the original documents of his property had been stolen by the accused and the same were used to avail loan by forging his signature. The petitioner came to know about the same only when the banker initiated proceedings under the SARFAESI Act. The said complaint was forwarded to the Grand Bazaar Police Station, Pondicherry and the same was registered in Crime No.140 of 2010 for the offences under Sections 380, 420 of IPC read with 34 of IPC.

3. After completion of the investigation, the FIR was closed as “Action Dropped”. On receipt of the referred charge sheet notice, the petitioner filed a protest petition and the same was treated as private complaint by the Trial Court. After recording the sworn statement of the



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petitioner and also supporting evidences, the Trial Court had taken

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cognizance in C.C.No.88 of 2015 for the offences under Sections, 380, 403, 409, 411, 416 to 420, 463, 465 & 471 of IPC read with Section 34 of IPC as against seven accused persons. When the matter was pending for framing of charges, the A1, A2 & A4 filed a petition seeking discharge from all the charges. The Trial Court allowed the said petition and discharged them from all the charges. Aggrieved by the same, the present Criminal Revision Case has been filed.

4. The learned counsel for the petitioner submitted that the Trial Court ought not to have considered the defence documents while deciding the discharge petition. The documents produced by the defence cannot be looked into at the stage of considering a petition for discharge. However, the Trial Court appreciated the defence side evidence and discharged the accused, which is impermissible under law. He further submitted that the petitioner and the accused are brothers. In the year 1988, the property belonging to the petitioner and his other brothers was mortgaged with the banker to avail loan, without the knowledge and consent of the petitioner. The accused persons allegedly forged the signature of the petitioner, deposited all the original title deeds and availed loan by executing a mortgage deed in favour of the banker.



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Thereafter, they committed default in repayment of loan amount, and as such, the banker initiated proceedings under the SARFAESI Act.

5. On receipt of the notice from the Debt Recovery Tribunal, the petitioner obtained information under the Right to Information Act and thereafter lodged a complaint before the police. However, the complaint was closed as “Action Dropped” on the ground that all the allegations were civil in nature and the petitioner tried to give a criminal colour to a civil dispute. Therefore, the petitioner filed a protest petition and after considering the facts and circumstances, the Trial Court rightly had taken cognizance and issued summons to the accused. Therefore, the Trial Court ought not to have discharged the accused.

6. On the basis of the defence side documents and also the evidence, the Trial Court, while deciding the discharge petition, ought not to have conducted a mini trial, which is impermissible in law. He further submitted that in support of the private complaint, the petitioner had also obtained an expert opinion with regard to the signature found in the mortgage deed and the same is completely different from the admitted signature of the petitioner.



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7. Per contra, the learned counsel for the respondents submitted

that the petitioner had full knowledge about the mortgage of the properties. The properties were mortgaged as early as in the year 1988. All the family members were the partners of M/s.Saratha Textiles and they had jointly executed the mortgage deed and availed loan by depositing the title deeds. He further submitted that only to escape from the clutches of SARFAESI proceedings, the petitioner has now taken a stand that his signature was forged and that the loan was availed by depositing the title deeds. In fact, the said contention was also rejected by the Debt Recovery Tribunal, which ordered for recovery of loan amount with interest. He also submitted that the documents which were allegedly stolen by their father, who is no more. Therefore, the Trial Court rightly discharged the accused and the same does not warrant any interference by this Court.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. There are totally seven accused this case, in which one of the accused died and the respondents herein are A1, A2 & A4. The Trial



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Court had taken cognizance as against the accused for the offences under Sections, 380, 403, 409, 411, 416 to 420, 463, 465 & 471 of IPC read with Section 34 of IPC.

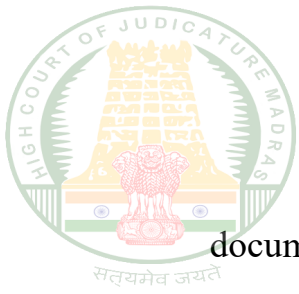
10. The crux of the complaint is that the petitioner and the accused persons are brothers. In the year 1988, the individual property of the petitioner and the accused, along with common property, were mortgaged with a banker and a loan was availed. The mortgage was also renewed in the year 1998. Thereafter, the borrowers committed default in repayment of the loan. Hence, the banker had initiated proceedings under SARFAESI to recover the loan amount. On receipt of the notice, the petitioner came to know about the mortgage and the Memorandum of Deposit of Title Deeds. According to the petitioner, he had retired from the partnership firm, viz., M/s.Saratha Textiles, in the year 1995. Thereafter, the mortgage loan was renewed in the year 1998 without the knowledge of the petitioner by forging his signature. After receipt of the notice under the proceedings of the SARFAESI Act, the petitioner obtained information under the Right to Information Act and immediately lodged a complaint. Based on the same, a case was registered in Crime No.140 of 2010 for the offences under Sections 380, 420 of IPC read with 34 of IPC.



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11. However, after completion of the investigation, the police closed the FIR as “Action Dropped” only on the ground that all the disputes were civil in nature, since one of the accused had already filed a suit, which was pending. Therefore, the petitioner filed a protest petition and the same was treated as a private complaint by the Trial Court. In order to make out a prima-facie case, the petitioner had examined himself as P.W.1 and in support of his contention, he also examined two other witnesses, including the hand writing expert and the banker. Upon being satisfied that a prima facie case had been made out for the offences under Sections, 380, 403, 409, 411, 416 to 420, 463, 465 & 471 of IPC read with Section 34 of IPC, the Trial Court had taken cognizance and issued summons to the accused. While the matter was pending for framing of charges, the A1, A2 & A4 filed a petition seeking discharge. The only ground raised by the petitioner for consideration in this revision is whether the Trial Court, while considering the discharge petition, can look into the documents and evidence produced by the defence side.

12. A perusal of the discharge petition filed by A1, A2 & A4 reveals that they had relied upon as many as twelve documents. The Trial Court, while considering the discharge petition, appreciated the



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documents produced by the defence as well as their evidence. Based on the same, the Trial Court concluded that the documents which were relied by the defence would indicate that the petitioner had knowledge of the mortgage proceedings and therefore the case of the complaint was impracticable. On that basis, the Trial Court held that it would not be fair to subject the accused to face the ordeal of trial. Though there was a difference in the signature found in the documents, it appeared from the materials that the complainant was aware of the mortgage proceedings as early as in the year 1998. Thus, the Trial Court considered the evidence of defence side and discharge the accused. It is impermissible in law. At the stage of considering a petition for discharge, the accused cannot rely upon documents beyond charge sheet.

13. In this regard, the learned counsel for the petitioner relied upon the Judgment of the Hon'ble Supreme Court of India reported in **(2005) 1 SCC 568** in the case of ***State of Orissa Vs. Debendra Nath Padhi***, wherein, it was held as follows :

“18. We are unable to accept the aforesaid contention. The reliance on Articles 14 and 21 is misplaced. The scheme of Code and object with which Section 227 was incorporated and Sections 207 and 207-



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A omitted have already been notice. Further, at the stage of framing of charge roving and fishing inquiry is impermissible. If the contention of the accused is accepted, there would be a mini-trial at the stage of framing of charge. That would defeat the object of the Code. It is well settled that at the stage of framing of charge the defence of the accused cannot be put forth. The acceptance of the contention of the learned counsel for the accused would mean permitting the accused to adduce his defence at the stage of framing of charge and for examination thereof at that stage which is against the criminal jurisprudence. By way of illustration, it may be noted that the plea of alibi taken by the accused may have to be examined at the stage of framing of proposition that it is for the accused to lead evidence at the trial to sustain such a plea. The accused would be entitled to produce materials and documents in proof of such a plea at the stage of framing of the charge, in case we accept the contention put forth on behalf of the accused. That has never been the intention of the law well settled for over one hundred years now. It is in this light that the provision about hearing the submissions of the accused as postulated by Section 227 is to be understood. It only means hearing the submissions of the accused on the record of the case as filed by the prosecution and documents submitted therewith and nothing more. The expression "hearing the submissions of the accused"



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cannot mean opportunity to file material to be granted to the accused and thereby changing the settled law. At the stage of framing of charge hearing the submissions of the accused has to be confined to the material produced by the police.”

14. In this regard, it is relevant to extract the provision under Section 245 of the Code of Criminal Procedure, which reads as follows :

“245. When accused shall be discharged -

(1) If, upon taking all the evidence referred to in section 244 the Magistrate considers, for reasons to be recorded, that no case against the accused has been made out which, if unrebutted, would warrant his conviction, the Magistrate shall discharge him.

(2) Nothing in this section shall be deemed to prevent a Magistrate from discharging the accused at any previous stage of the case if, for reasons to be recorded by such Magistrate, he considers the charge to be groundless.”

15. The question that arises for consideration is whether the documents cited by the accused could have been looked into or relied upon by the Trial Court while exercising its jurisdiction under Section 245 of the Code of Criminal Procedure.



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16. Applying the above principles, in the case on hand, it is seen

that the Trial Court by referring all the documents which were produced by the defence side and discharged the accused. That apart, the learned counsel for the respondents also produced the order passed in O.A.No.124 of 2011 dated 10.05.2013 on the file of the Debts Recovery Tribunal – II, Chennai, before this Court and relied upon the findings insofar as the allegations of forgery of the petitioner's signature. The Tribunal concluded that the petitioner herein did not take any steps to send the disputed documents for opinion of the hand writing experts. It was further held that on perusal of the signature found in the mortgage deed with the admitted signature, there was no forgery, since the signatures did not appear to have been imitated or traced from another signature. However, those documents cannot be relied upon while deciding a discharge petition since all those documents can be tested during the course of trial. In the discharge petition, the Trial Court ought to have seen that whether the charges are made out on the basis of the materials produced by the complainant and other supporting evidence.

17. In fact, the Trial Court considered the evidence of the complainant and other supporting documents had taken cognizance.

When it being so, in the discharge petition, the Trial Court ought not to

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have looked into the defence documents and whatever the defence taken by the accused. On this sole ground, the order of discharge passed by the Trial court cannot be sustained and the same is liable to be set aside.

18. Accordingly, the order dated 20.06.2022 passed in Crl.M.P.No.2351 of 2022 in C.C.No.88 of 2015 on the file of the Chief Judicial Magistrate, Puducherry, is hereby set aside. The Trial Court is directed to proceed with the trial as against the accused persons and complete the same within a period of six months from the date of receipt of a copy of this order.

19. In the result, this Criminal Revision Case stands allowed.

16.03.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
Neutral Citation : Yes/No
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To
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The Chief Judicial Magistrate,
Puducherry



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G.K.ILANTHIRAIYAN, J.
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Pre-delivery order in
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