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CrI.O.P. No.25432 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 06.02.2026

DELIVERED ON: 16.03.2026

CORAM:

THE HONOURABLE MR.JUSTICE A.D. JAGADISH CHANDIRA

CrI.O.P. No.25432 of 2025

Sundar

Petitioner

vs.

1. State represented by
The Inspector of Police
Central Crime Branch
Tambaram
Chennai 600 119

2. Amraram

Respondents

Criminal Original Petition filed under Section 528 of the BNSS,
2023 to call for the records in Cr.No.13 of 2025 on the file of the first
respondent police and quash the same.

For petitioner Mr. P.V. Balasubramaniam
Senior Advocate
for Mr. A.S. Aswin Prasanna

For R1 Mr. K.M.D. Muhilan
Additional Public Prosecutor

For R2 Mr. V. Ramamoorthy



ORDER

This criminal original petition seeks quashment of the First Information Report in Cr.No.13 of 2025 dated 11.04.2025 on the file of the first respondent police.

2. Given the facts obtaining in this case, it becomes imperative for this Court to deal with the case of the prosecution a little threadbare and the same is accordingly given as under:

2.1 The second respondent/*de facto* complainant (Amraram) entered into a sale agreement on 26.10.2017 with the first accused (Krishnamurthy) in respect of the property measuring 58 cents in S.No.20/2A1 in Navalur Village for a total consideration of Rs.7,31,09,000/- which was paid by him in several instalments in the form of cheques and cash.

2.2 While so, the second respondent/*de facto* complainant came to know about the title dispute between the first accused and one Manoharan, the second accused herein, with regard to the property in question.



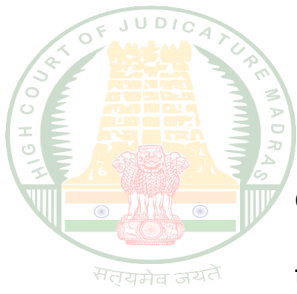
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2.3 When things stood thus, the first accused approached one Sundar, Proprietor of Bhoomi Builders (fourth accused/petitioner herein), who, joining hands with the first and second accused and also the Sub Registrar, Thiruporur (fifth accused), created a document giving joint title to the first and second accused, pending a civil suit.

2.4 While so, on 16.09.2022, the second respondent/*de facto* complainant was asked to come near the Light House in Marina Beach from where he was kidnapped to the Office of the Sub Registrar, Thiruporur and was made to cancel the sale agreement dated 26.10.2017 entered into between him and the first accused. Not stopping with that, a sale deed was executed *qua* the same property in favour of one Premium Prosperity Infra Pvt. Ltd., a sister concern of Bhoomi Builders owned by the fourth accused/petitioner, to which, the second respondent/*de facto* complainant was coerced to sign as an attesting witness. Further, the second accused made the Sub Registrar, Thiruporur, cancel the sale deed dated 24.08.2018 presented by the second respondent/*de facto* complainant stating that the order passed in W.P.No.21202



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of 2018, *inter alia*, prohibits any transaction with regard to the property in question. On the same day, the first accused transferred an amount of Rs.60 lakhs by way of NEFT to the second respondent/de facto complainant.

2.5 Hence, on a complaint lodged by the second respondent/*de facto* complainant, a case was registered in D-5 Marina Police Station Cr.No.259 of 2022 for the offences under Sections 143, 347, 365, 323 and 506(I) IPC against the accused 1 to 3 herein and some others and the said case is pending trial in C.C.No.6703 of 2023 on the file of the II Metropolitan Magistrate Court, Egmore.

2.6 Since the title deeds in respect of the property in question were with the second respondent/*de facto* complainant, he was threatened to hand over the same to the accused and unable to withstand their torture, he left for Rajasthan on 10.11.2024 handing over all the original documents in his possession to his brother's son Bhundaram, smelling which, the accused tortured Bhundaram too demanding original documents.



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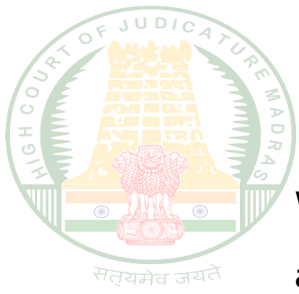
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2.7 Upon being called by his nephew on 04.03.2025 and informed that he was tortured by the accused demanding original title deeds, he (second respondent/*de facto* complainant) returned to Chennai from Rajasthan and lodged the complaint for the act of the accused in grabbing the original documents from his custody to make their sale deed genuine.

3. Before proceeding further, it becomes equally imperative to discuss tersely the prosecution case in the FIR in Cr.No.259 of 2022 which was registered for the offences under Sections 143,347,365,323 and 506(I) IPC, pursuant to the complaint given by the second respondent/*de facto* complainant and the same is as under:

3.1 On 16.09.2022, at around 7.30 a.m., the *de facto* complainant was asked to come by one Senthamizh (second accused therein) near the Light House in Marina Beach and when he went there, he was abducted by four persons to the Office of the Sub Registrar, Thiruporur, where, he was made to sign in a stamp paper at knife point and was let off near his shop in the same evening with a



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warning by Vimala Krishnamurthy (third accused therein) and ten others that he should not divulge this incident to anyone and in the event of he divulging this incident to anyone, his family will be eliminated.

3.2 The above kidnapping was done in order to illegally cancel the sale agreement dated 26.10.2017 entered into between the second respondent/*de facto* complainant and first accused in which the second respondent/*de facto* complainant had parted with an advance amount of Rs.60 lakhs *qua* the property measuring 58 cents in Survey No.20/2A1 at Navalur Village and for execution of sale deed entered into by the first and second accused with one Bhoomi Builders, pending litigation, in which the second respondent/*de facto* complainant was coerced to sign as an attesting witness.

4. Mr. P.V. Balasubramaniam, learned Senior Counsel representing Mr. A.S. Aswin Prasanna, learned counsel on record for the petitioner, made the following submissions:

- i. a dispute which is essentially of a civil nature has been given a cloak of criminal offence;



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- ii. the impugned FIR is the second FIR in respect of the very same transaction, the first FIR having been registered in Cr.No.259 of 2022, thereby attracting the issue of wreaking vengeance out of personal grudge to settle a civil dispute by police action;
- iii. the impugned FIR has been instituted maliciously due to an underlying civil dispute over land and money payment and this is nothing short of not only harassment but also abuse of process of Court;
- iv. the petitioner has got nothing to do in respect of the transaction that had happened between the second respondent/*de facto* complainant and the remaining accused, inasmuch as there is absolutely no allegation in the FIR that the petitioner had either committed breach of trust or cheating to attract the offences under Sections 406 or 420 IPC;
- v. in the second FIR, the second respondent/*de facto* complainant claims to have paid an amount of Rs.7.31 crores, whereas, in the first FIR, he claims to



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have paid only an amount of Rs.60 lakhs as advance (without any reference whatsoever *qua* the total sale consideration) while entering into sale agreement; this amount of Rs.60 lakhs has been repaid to the de facto complainant by way of NEFT, pursuant to which, the sale agreement dated 26.10.2017 was cancelled and the second respondent/de facto complainant also stood as a witness to the subsequent sale deed dated 16.09.2022 executed between the petitioner and accused 1 and 2;

- vi. there is neither any explanation with regard to the repayment of the advance amount nor were steps taken by the second respondent/de facto complainant to declare the subsequent sale deed dated 16.09.2022 as null and void and the criminal complaint has been given to settle a civil dispute; and
- vii. in the registered sale deed dated 16.09.2022 registered as Document No.20692 of 2022, there is a crystal clear recital to the effect that the original documents and legal and physical possession of the



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property have been handed over to the purchaser who is the petitioner/fourth accused and in the light of such a categorical recital, the stand of the second respondent/*de facto* complainant that he had given the original title deeds to his nephew and that he and his nephew were intimidated by the accused to part with the original title deeds does not have legs to stand.

5. In support of his contention that the offences under Sections 406 and 420 IPC cannot co-exist and that intention to defraud or dishonest intention should be present right from the very beginning or inception, the learned Senior Counsel relied on the judgment in **Delhi Race Club 1940 Ltd. Vs. State of Uttar Pradesh [(2024) 10 SCC 690]**, the relevant paragraphs of which, are extracted below at the cost of prolixity:

“Difference between criminal breach of trust and cheating:

35. This Court in its decision in *S.W. Palanitkar v. State of Bihar* [*S.W. Palanitkar v. State of Bihar*, (2002) 1 SCC 241 : 2002 SCC (Cri) 129] expounded the difference in the ingredients required for constituting of an offence of criminal breach of trust (Section 406 IPC) vis-à-vis the offence of cheating (Section 420). The relevant observations read as under : (SCC p. 246, paras 9-10)

“9. The ingredients in order to constitute a criminal breach of trust are : (i) entrusting a person with property or with any dominion over property; (ii) that person entrusted : (a) dishonestly misappropriating or converting that property to his own use; or (b) dishonestly using or disposing of that property or wilfully suffering any other



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person so to do in violation (i) of any direction of law prescribing the mode in which such trust is to be discharged, (ii) of any legal contract made, touching the discharge of such trust.

10. The ingredients of an offence of cheating are : (i) there should be fraudulent or dishonest inducement of a person by deceiving him, (ii)(a) the person so deceived should be induced to deliver any property to any person, or to consent that any person shall retain any property; or (b) the person so deceived should be intentionally induced to do or omit to do anything which he would not do or omit if he were not so deceived; and (iii) in cases covered by (ii)(b), the act of omission should be one which causes or is likely to cause damage or harm to the person induced in body, mind, reputation or property.”

36. What can be discerned from the above is that the offences of criminal breach of trust (Section 406 IPC) and cheating (Section 420 IPC) have specific ingredients:

In order to constitute a criminal breach of trust (Section 406 IPC)

- (1) There must be entrustment with person for property or dominion over the property, and
- (2) The person entrusted:
 - (a) Dishonestly misappropriated or converted property to his own use, or
 - (b) Dishonestly used or disposed of the property or wilfully suffers any other person so to do in violation of:
 - (i) Any direction of law prescribing the method in which the trust is discharged; or
 - (ii) Legal contract touching the discharge of trust (see : *S.W. Palanitkar [S.W. Palanitkar v. State of Bihar, (2002) 1 SCC 241 : 2002 SCC (Cri) 129]*).

Similarly, in respect of an offence under Section 420IPC, the essential ingredients are:

- (1) Deception of any person, either by making a false or misleading representation or by other action or by omission;
- (2) Fraudulently or dishonestly inducing any person to deliver any property, or
- (3) The consent that any person shall retain any property and finally intentionally inducing that person to do or omit to do anything which he would not do or omit (see: *Harmanpreet Singh Ahluwalia v. State of Punjab [Harmanpreet Singh Ahluwalia v. State of Punjab, (2009) 7 SCC 712 : (2009) 3 SCC (Cri) 620]*).



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37. Further, in both the aforesaid sections, mens rea i.e. intention to defraud or the dishonest intention must be present, and in the case of cheating it must be there from the very beginning or inception.

38. In our view, the plain reading of the complaint fails to spell out any of the aforesaid ingredients noted above. We may only say, with a view to clear a serious misconception of law in the mind of the police as well as the courts below, that if it is a case of the complainant that offence of criminal breach of trust as defined under Section 405IPC, punishable under Section 406IPC, is committed by the accused, then in the same breath it cannot be said that the accused has also committed the offence of cheating as defined and explained in Section 415IPC, punishable under Section 420 IPC.

39. Every act of breach of trust may not result in a penal offence of criminal breach of trust unless there is evidence of manipulating act of fraudulent misappropriation. An act of breach of trust involves a civil wrong in respect of which the person may seek his remedy for damages in civil courts but, any breach of trust with a mens rea, gives rise to a criminal prosecution as well. It has been held in *Hari Prasad Chamaria v. Bishun Kumar Surekha* [*Hari Prasad Chamaria v. Bishun Kumar Surekha*, (1973) 2 SCC 823 : 1973 SCC (Cri) 1082] as under : (SCC p. 824, para 4)

“4. We have heard Mr Maheshwari on behalf of the appellant and are of the opinion that no case has been made out against the respondents under Section 420 of the Penal Code, 1860. For the purpose of the present appeal, we would assume that the various allegations of fact which have been made in the complaint by the appellant are correct. Even after making that allowance, we find that the complaint does not disclose the commission of any offence on the part of the respondents under Section 420 of the Penal Code, 1860. There is nothing in the complaint to show that the respondent had dishonest or fraudulent intention at the time the appellant parted with Rs 35,000. There is also nothing to indicate that the respondents induced the appellant to pay them Rs 35,000 by deceiving him. It is further not the case of the appellant that a representation was made by the respondents to him at or before the time he paid the money to them and that at the time the representation was made, the respondents knew the same to be false. The fact that the respondents subsequently did not abide by their commitment that they would show the appellant to be the proprietor of Drang Transport Corporation and would also render accounts to him in the month of December might create civil liability for them, but this fact would not be sufficient to fasten criminal liability on the respondents for the offence of cheating.”



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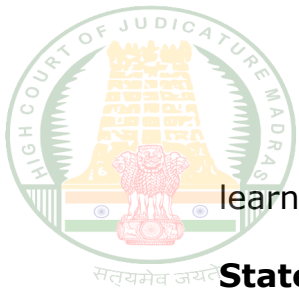
40. To put it in other words, the case of cheating and dishonest intention starts with the very inception of the transaction. But in the case of criminal breach of trust, a person who comes into possession of the movable property and receives it legally, but illegally retains it or converts it to his own use against the terms of the contract, then the question is, in a case like this, whether the retention is with dishonest intention or not, whether the retention involves criminal breach of trust or only a civil liability would depend upon the facts of each case.

41. The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed. Therefore, it is this intention, which is the gist of the offence.

42. Whereas, for the criminal breach of trust, the property must have been entrusted to the accused or he must have dominion over it. The property in respect of which the offence of breach of trust has been committed must be either the property of some person other than the accused or the beneficial interest in or ownership of it must be of some other person. The accused must hold that property on trust of such other person. Although the offence i.e. the offence of breach of trust and cheating involve dishonest intention, yet they are mutually exclusive and different in basic concept.

43. There is a distinction between criminal breach of trust and cheating. For cheating, criminal intention is necessary at the time of making a false or misleading representation i.e. since inception. In criminal breach of trust, mere proof of entrustment is sufficient. Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously.” (emphasis supplied)

6. To buttress his contention that it is the duty of the High Court to intervene where continuation of criminal proceedings would amount to an abuse of process of law or where the dispute is purely of a civil nature and criminal colour has been artificially given to it,



learned Senior Counsel relied on the decision in **Anukul Singh vs. State of Uttar Pradesh and another 2025 [LiveLaw (SC) 948]**.

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7. *Per contra*, Mr. K.M.D. Muhilan, learned Additional Public Prosecutor, contended that only after satisfaction that the offences committed were cognizable in nature, was the impugned FIR registered by the first respondent police and investigation is pending and hence, the same is not liable to be quashed.

8. Mr. V. Ramamoorthy, learned counsel for the second respondent/*de facto* complainant, submitted that the petitioner, joining hands with the accused 1 and 2 and also the third accused (Vimala Krishnamurthy) who is the wife of the first accused and who is politically influential, and also colluding with the fifth respondent (Sub Registrar, Thiruporur), got the sale agreement entered into between him (*de facto* complainant/second respondent) and the first accused cancelled, got the sale deed presented by the second respondent/*de facto* complainant rejected and got the sale deed executed in his (petitioner's) favour on 16.09.2022 by making the second respondent/*de facto* complainant an attesting witness to the said sale deed at knife point and hence, the impugned FIR does not deserve to be quashed. It is his further submission that the second respondent/*de facto* complainant has filed a suit in O.S. SR.No.7661 of 2025 on the file of the Principal Sub Court, Chengalpattu, *inter*



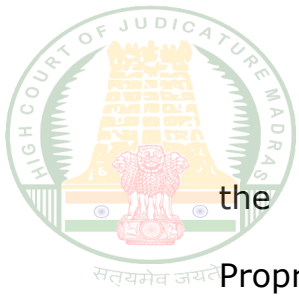
alia, seeking declaration of execution of sale deed dated 16.09.2022 by the accused 1 and 2 in favour of the petitioner as null and void.

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9. This Court gave its anxious consideration to the rival submissions and perused the materials available on record.

10. At the threshold, it is worth pointing out that this criminal original petition has been instituted only by the fourth accused and hence, the only point that arises for consideration in this case is whether the offences for which the impugned FIR has been registered, are made out against the petitioner or not.

11. Firstly, it is to be noted that in the entire impugned FIR, there is no averment against the petitioner in respect of offences under which the FIR has been registered. Further, there is no shred of material produced by the second respondent/*de facto* complainant to show that the petitioner had the intention to defraud or dishonest intention of cheating the second respondent/*de facto* complainant right from the very beginning, which is an essential requirement for the offences under Section 406 and 420 IPC to be attracted against an accused. This is amply clear from the fact that petitioner was not arrayed as an accused in the first FIR registered in Cr.No.259 of 2022, notwithstanding the fact that there was a specific reference to



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the name of Bhoomi Builders (for which the petitioner is the Proprietor) in the first FIR. But, surprisingly, for the reasons best known, the petitioner was not arrayed as an accused in the first FIR. Based on these, it can safely be held that the offences under Sections 406 and 420 are not at all made out as against the petitioner. In this regard, the decision in **Delhi Race Club, supra**, pressed into service by the learned Senior Counsel for the petitioner, the relevant portion of which has already been extracted, comes to the aid of the petitioner's case.

12. Secondly, as rightly argued by the learned Senior Counsel for the petitioner, in the sale deed executed by the first and second accused in favour of the petitioner and registered with the Sub Registrar's Office at Thiruporur, there is a specific recital *qua* handing over of original title deeds to the petitioner together with physical possession of the property. To be noted, the sale deed executed in favour of the petitioner is dated 16.09.2022. When such is the case, it is beyond the comprehension of this Court as to how the second respondent/*de facto* complainant could give the present complaint on 06.03.2025 stating that he was threatened to part with the original title deeds and to flee to Rajasthan, unable to tolerate which, he handed over the original title deeds to his nephew, who also was tortured by the accused making the very same demand and



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hence, the present complaint. This stand of the second respondent/*de facto* complainant is too big a pill, for this Court, to swallow inasmuch as this stand is inherently improbable on an analysis of the attending circumstances. This view of this Court is fortified by the decision in **Mahmood Ali and others vs. State of Uttar Pradesh and others [2023 LiveLaw (SC) 613]**, wherein, it was categorically held that in a frivolous or vexatious case filed to wreak vengeance, the Court owes a duty to look into many other attending circumstances emerging from the record of the case, over and above the averments, and if need be, with due care and circumspection, try to read in between the lines. In the case on hand, as already adverted to above, the fact that the petitioner was not arrayed as an accused in the first FIR registered on 14.10.2022 but was arrayed as an accused in the second FIR registered about three years later *i.e.*, on 11.04.2025, prompts this Court to draw an inference that this act of the second respondent/*de facto* complainant is nothing short of an attempt to wreak vengeance.

(emphasis supplied)

13. Thirdly, if we have a closer look at the first FIR and the impugned second FIR, it is as clear as day that the allegation in both the FIRs is one and the same, *i.e.*, in respect of the same property. It is precisely for this reason that this Court had to delve into the facts of the first FIR too, a bit elaborately, at paragraph 3.1 and 3.2,



supra. Needless to state, the registration of the second FIR in respect of the same issue assumes greater significance, thereby, making this Court think again and again that this is an attempt by the second respondent/*de facto* complainant to settle a civil dispute, as has been held in **Mahmood Ali**, *supra*.

14. Fourthly, the second respondent/*de facto* complainant has filed a suit on the file of the Principal Sub Court, Chengalpattu, in O.S. SR.No.7661 of 2025 (more or less at the same time of filing this criminal original petition) *inter alia* seeking cancellation of alleged bogus deeds created by the accused. Curiously enough, in the plaint filed in the said suit, the second respondent/*de facto* complainant has shown the value of the property in question as Rs.2,19,09,000/- as against his consistent claim of Rs.7,31,09,000/- throughout, leaving a gargantuan difference of Rs.5,12,00,000/-. In short, the stand taken by the second respondent/*de facto* complainant as regards the value of the property in question is mutually destructive. In this regard, this Court is confident that the second respondent/*de facto* complainant cannot be heard to take a stand that it was a typo, for, the total of the break up figures given in the plaint also works out to the same amount *i.e.*, Rs.2,19,09,000/-.

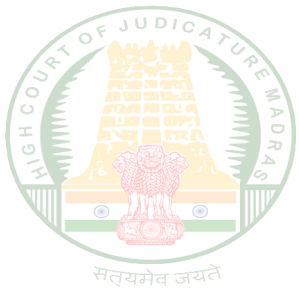


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15. Taking into account the materials placed before this Court in their entirety, this Court has no incertitude in holding that the second respondent/de facto complainant had attempted to give a criminal cloak to a civil dispute. At this juncture, it is apropos to allude to a recent judgment in **Urmila Devi and others vs. Balram and another [2025 SCC OnLine SC 1574]**, wherein, quoting with approval as many as four earlier judgments, the Supreme Court has discussed the powers of High Court while exercising its jurisdiction under Section 482 Cr.P.C. The relevant portion of the said judgment reads thus:

“8.9. In *R.K. Vijayasarathy*, this Court held that while exercising powers under Section 482 of the Cr. P.C., a High Court can examine whether a matter which is essentially of a civil nature has been given a cloak of a criminal offence. Recently, in *Vishal Noble Singh v. State of Uttar Pradesh*, 2024 SCC OnLine SC 1680, this Court held that courts have to be vigilant to ensure that the machinery of criminal justice is not misused for achieving oblique motives and agendas. Tacitly endorsing such misuse only unnecessarily burdens the courts and the criminal justice system. In *Anand Kumar Mohatta*, this Court, whilst quashing the FIR and charge sheet therein, highlighted the following words of this Court in *State of Karnataka v. L. Muniswamy*, (1977) 2 SCC 699, that describe the fundamental principle for exercise of powers under Section 482 of the Cr. P.C.:

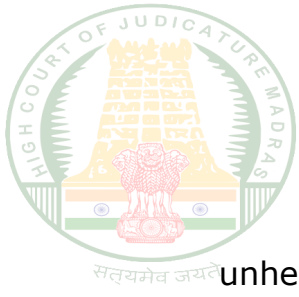
“7. ... In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High Court's inherent powers, both in civil and criminal matters, is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. In a criminal case, the veiled object behind a lame prosecution, the very nature of the material on which the structure of the prosecution rests and the like would justify the High Court in quashing the proceeding in the interest of justice.”



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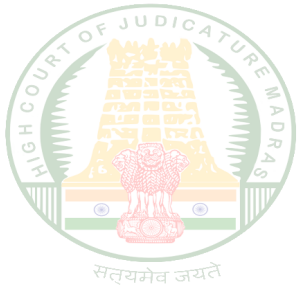
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16. For all the aforementioned reasons, this Court, holds unhesitatingly that the impugned FIR is an abuse of process of law and is, hence, liable to be quashed insofar as the petitioner/A4. Accordingly, the impugned FIR is quashed *qua* the petitioner/A4.

17. As a sequitur, this criminal original petition stands allowed.

16.03.2026

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Index : Yes/No
N.C. : Yes/No



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A.D. JAGADISH CHANDIRA, J.

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To

1. The Inspector of Police
Central Crime Branch
Tambaram
Chennai 600 119
2. The Public Prosecutor
Madras High Court
Chennai 600 104

CrI.O.P. No.25432 of 2025

16.03.2026

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