

**IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE
ERODE**

Present: **Tmt.S. SAMEENA, B.A., L.L.B.,**
Principal Sessions Judge, Erode

Tamil Parabhava Varudam, Vaikasi Month, 23rd day
Saturday, the 6th day of June, 2026

Crl RP No.23/2024
CNR No.TNED01-003501-2024
and
Crl RP No.30/2024
CNR No.TNED01-004908-2024

1. Shanmugavadivu

2. Sarveshkailasam

...Revision Petitioners/A1 & A2

Vs

State through Inspector of Police,
District Crime Branch, Erode.

... Respondent/Complainant

These Criminal Revision Petitions coming on 28.04.2026 for final hearing before me, in both the petitions, in the presence of Thiru.V.Balasubramanian, B.A., B.L., the Advocate for the Revision Petitioners/A1 and A2, and of Thiru.M.Arutchelvan, B.A., B.L., the Public Prosecutor for the Respondent/Complainant and upon considering all material records in these criminal revision petitions and hearing the submissions on both sides, and having stood over till this day for consideration, and this court doth deliver the following

COMMON ORDER

Crl RP No.23/2024

Criminal Revision Petition No.23/2024 revision petition has been filed under S.397 r/w S.398 and S.399 and S.401 of Cr.P.C by the revision petitioners to set aside the Order passed in Crl.M.P.No.6282/2024 in CC No.446/2019 by the Learned Judicial Magistrate No.II, Erode dated 27.06.2024 .

CrI RP No.30/2024

Criminal Revision Petition No.30/2024 has been filed U/s 438 r/w S.439, 440 and 442 of BNSS by the revision petitioners to set aside the Order of framing of charges passed by the Learned Judicial Magistrate No.II, Erode in CC No.446/2019 dated 05.07.2024

02. Heard both sides. Records perused.

03. POINT FOR DETERMINATION:

1. Whether the CRP 23/2024 can be allowed?
2. Whether the CRP No.30/2024 can be allowed?

04. POINTS 1 and 2:

Since the core issue to be decided in both the cases are similar, this court is inclined to pass a Common Order.

05. CRP 23/2024 has been filed by the revision petitioners who are A1 and A2 in CC No.446/2019 on the file of Judicial Magistrate No.II, Erode, questioning the legality and propriety of the Order dated 27.06.2024 passed by the Learned Judicial Magistrate No.II, Erode in CrI MP No.6282/2024 in CC No.446/2019. The revision petitioners seek to assail the said Order, on the ground that the trial court has not considered the proposition of law laid down by the Hon'ble Supreme Court in the Judgment reported in 2020 S.CeJ 1557 dated 02.09.2020. According to them, the present nature of complaint has to be given only by the II Additional District and Sessions Judge, Erode invoking Section 195(1)(b)(i) of Cr.P.C.

06. CRP No.30/2024 has been filed by the very same revision petitioners, questioning the Order of framing of charges of Learned Judicial Magistrate No.II, Erode on 05.07.2024 on the ground that the trial court has no jurisdiction to entertain and to try the case in view of Section 195(1)(b)(i) of Cr.P.C.

07. In this case originally Accused A4, A7, A1 & A2 and A5 & A6 had filed petitions in CrI MP Nos.14158/2019, 14159/2019, 14160/2019 and 14161/2019 before Judicial Magistrate No.II, Erode seeking to discharge from the case in CC No.446/2019 and the trial court has passed a Common Order dated 26.12.2019. Against the said Order A4 has filed CRP No.25/2020, A7 had filed CRP No.26/2020, A1 and A2 had filed CRP No.27/2020 and A5 and A6 had filed CRP No.31/2020 and all the CRPs were heard together by the learned II Additional District and Sessions Judge, Erode and Common Order dated 08.04.2024 had been passed. In the CRP an argument is put forward by the revision petitioners contending that the nature of this case warrants a complaint to be made by II Additional District and Sessions Judge, Erode U/s 195(1)(b)(i) of Cr.P.C. and the trial court as well as the II Additional District and Sessions Court, Erode have not considered the Judgment of the Apex Court passed in 2020 SCeJ 1557 dated 02.09.2020 by drawing the attention of this court to the aforesaid authority. They vehemently contended that the complaint ought to have been filed by the II Additional District and Sessions Court, Erode and the complaint made by the defacto complainant is not maintainable.

08. The crux of the case of the prosecution is that A1 and A2 created a forged Will dated 16.09.2011 purported to have been executed by one K. Maruthapushpam, the grandmother of the defacto complainant, and A1 and A2 sold the property with the help of A3 and A4, A5 and A6. It is the further case of the revision petitioners that a civil suit in OS No.173/2014 is pending before the II Additional District

Court, Erode and a defence has been taken by A1 and A2 and others that, the said testator K. Maruthapushpam executed and administered the Will dated 16.09.2011. According to the prosecution, the said Will is alleged to be a forged document. It is the further case of the prosecution that on the date of the alleged execution of the unregistered Will dated 16.09.2011, the testator was taking treatment in the hospital and as per the handwriting expert opinion, the signature found in the disputed Will did not tally with her admitted signature.

09. The Supreme Court in M/s Bandekar Brothers Pvt.Ltd. v. Prasad Vassudev Keni reported in 2020 SceJ 1557 = (2020) 20 SCC 695 had held that Section 195(1)(b)(i) and Section 195(1)(b)(ii) operate in distinct fields and should not be conflated. The principles laid down in **Iqbal Singh Marwah** apply primarily to clause (ii) and cannot automatically be extended to clause (i).

10. Section 195(1)(b)(i) Cr.P.C. deals with offences against public justice, such as offences under Sections 193 to 196, 199, 200, 205 to 211 and 228 IPC i.e., false evidence, perjury, fabrication of evidence, etc and the Court held that where the offence consists of giving or fabricating false evidence in relation to a judicial proceeding, cognizance can be taken only on a complaint in writing by the concerned Court or a Court to which it is subordinate, following the procedure under Section 340 Cr.P.C. and private complaint is barred.

11. Section 195(1)(b)(ii) Cr.P.C. is concerned with offences relating to documents produced or given in evidence in a Court proceeding, such as forgery and use of forged documents. In this case the Court reiterated the principle of **Iqbal Singh Marwah** that, if the forgery was committed before the document was produced in Court, the bar under Section 195(1)(b)(ii) does not apply and prosecution can be initiated by the aggrieved person. The Court complaint requirement arises only in cases covered by the specific language of clause (ii).

12. Thus the **Hon'ble Supreme Court in M/s Bandekar Brothers Pvt. Ltd. v. Prasad Vassudev Keni** has clearly held that Sections 195(1)(b)(i) and 195(1)(b)(ii) Cr.P.C. deal with two distinct categories of offences.

13. A conjoint reading of the decisions of the **Hon'ble Supreme Court in M/s. Bandekar Brothers Pvt. Ltd. and Another Vs. Prasad Vassudev Keni reported in 2020 SCS 1557 and Sachida Nand Singh and Another Vs. State of Bihar and Another reported in (1998) 2 SCC 493** makes it clear that the embargo contained under Section 195(1)(b)(ii) Cr.P.C. is attracted only when the offence of forgery is committed with respect to a document after it has been produced or given in evidence in a proceeding before a Court. The Hon'ble Supreme Court has reiterated that where a document is alleged to have been forged prior to its production before a Court, the offence stands completed outside the Court and the prosecution for such offence can be initiated on the basis of a private complaint or police report without a complaint from the concerned Court under Section 340 Cr.P.C.

14. The Hon'ble Supreme Court has further clarified that the provisions contained in Section 195 Cr.P.C. are intended to protect the sanctity of judicial proceedings and are not meant to shield persons who have allegedly fabricated or forged documents outside the Court and subsequently relied upon the same in judicial proceedings. In such circumstances, the jurisdiction of the criminal Court is not ousted merely because the forged document later came to be produced before a civil or criminal Court.

15. In this case, the purported forged unregistered Will was dated 16.09.2011, but the civil suit has been filed in the year 2014. From the facts of the case, it is crystal clear that the purported forged Will is alleged to have been created, before

the said Will is produced in Court. The alleged forged Will which was created before filing of the civil suit is being questioned in this case. Therefore the argument of the revision petitioners cannot be countenanced.

16. Further, in the case on hand, the prosecution allegation is that the disputed unregistered Will dated 16.09.2011 was itself a forged document and that the same was subsequently relied upon by the accused in the civil proceedings. Therefore, the alleged act of forgery, according to the prosecution, had taken place much prior to the institution of the civil suit and prior to the production of the document before the Court. Consequently, the bar contemplated under Section 195(1)(b)(ii) Cr.P.C. is not attracted to the facts of the present case.

17. Further, it is seen from the counter filed by the respondent police that PW1 and PW2 have been examined by the trial court.

18. Equally, Section 195(1)(b)(i) Cr.P.C. dealing with offences relating to giving or fabricating false evidence in judicial proceedings has no application at the present stage since the gravamen of the accusation is the creation of a forged Will outside the Court and not the commission of an offence while the document was in custodia legis. Therefore, the contention of the revision petitioners that the complaint ought to have been lodged only by the II Additional District and Sessions Judge, Erode, is devoid of merits and cannot be accepted.

19. In view of the above settled position of law, this Court is of the considered opinion that the learned Judicial Magistrate was justified in taking cognizance of the offences and proceeding with the case. Hence, the impugned orders do not suffer from any illegality, irregularity or jurisdictional error warranting interference in exercise of revisional jurisdiction.

20. In the result,

Crl RP No.23/2024

- (i) the Criminal Revision Petition in Crl RP No.23/2024 is DISMISSED.
- (ii) the Order dated 27.06.2024 of the Learned Judicial Magistrate No.II, Erode, passed in Crl MP No.6282/2024 in CC No.446/2019, is hereby CONFIRMED.

Crl RP No.30/2024

- (i) the Criminal Revision Petition in Crl RP No.30/2024 is DISMISSED.
- (ii) the Order of the Learned Judicial Magistrate No.II, Erode in CC No.446/2019 dated 05.07.2024 in respect of framing of charges is hereby CONFIRMED.

Dictated to the Steno-typist, typed by her directly, and then corrected and pronounced by me in the open court, this 6th day of June, 2026.

Principal Sessions Judge
Principal Sessions Court
Erode

Copy to:

The Judicial Magistrate No.II, Erode