IN THE COURT OF XXVIII METROPOLITAN MAGISTRATE, For Exclusive Trial Of CCB Cases (Relating To Cheating Cases In Chennai), And CBCID Metro Cases, EGMORE, CHENNAI – 08.

PRESENT : Thiru. V. Muralitharan, B.B.A., B.L.,
XXVIII CCB & CBCID Metropolitan Magistrate,
Egmore, Chennai.

Crl.M.P.No. 1435/2025 in CNR.No.TNCH0F-003390-2025
in
C.C.No. 2930 of 2024

This Tuesday, the 28th day of July 2026

1. O.A. Kaja Mohideen,
S/o. O.M. Ahmad Meeran,
No. 3/225, Ilango Street,
Santhoushapuram,
Vengaivasal, Selaiyur,
hennai – 600 073.

2. H. Mohideen Abdul Kader,
S/o. T. Habeeb Mohammed,
No. 4/19A, Ramagiri Nagar 1st Street,
Velachery, Chennai – 600 041. ...... Petitioners / Accused Nos. 3 & 4

--VERSUS--

The State
Represented by The Inspector of Police,
Central Crime Branch (CCB)-1 PS,
Chennai CCB District. ... 1st Respondent / Complainant

Y. Lakshmanan,
S/o. Yanathaiya,
No. 30/3, Nagappan Street,
Old Washermenpet,
Chennai – 600 021. ... 2nd Respondent/De-factoComplainant

*This application came up before this Court for final hearing in the presence of advocate **M/s D. Kannappan, Mr. S. Vinoth Kumar, Mr. B. Abinayan, Mr. A. Vivek** appearing for the petitioner/ accused and **Mr. V. Sarathbabu Gr-I (FAC)** Assistant Public Prosecutor appearing for the Respondent having stood over for consideration this Court passes the following:*

ORDER

1) This application has been preferred by the Petitioners / Accused Nos. 3 and 4 under Section 239 of the Code of Criminal Procedure, 1973 (corresponding to Section 250 of the Bharatiya Nagarik Suraksha Sanhita, 2023) seeking to discharge them from the charges in C.C. No. 2930 of 2024 for alleged offences under Sections 406, 420, and 120-B of the Indian Penal Code (IPC).

2) Brief of the Prosecution Case :-

2.1) According to the prosecution, A1 to A4 hatched a criminal conspiracy to cheat the De-facto Complainant by offering to sell their property consisting of 5 residential units situated at Plot No. 48, Ramagiri Nagar, Velachery, Chennai, representing the land area to be 2,400 sq. ft. Registered sale agreements were entered into: Petitioner 1 (A3) executed Doc. No. 2907/2022 receiving an advance of Rs.5,000,000/-, and Petitioner 2 (A4) executed Doc. Nos. 2916/2022 & 2917/2022 receiving an advance of Rs.10,000,000/- (Rs.5,000,000/- each). A total sum of Rs.71,000,000/- was received by all four accused together.

2.2) It is alleged that the Patta was not in the names of the accused and reflected an extent of only 1,506 sq. ft. instead of 2,400 sq. ft. The accused subsequently failed to execute the sale deeds, demanded an enhanced price of Rs.2,50,000,000/-, refused to refund the advance amount, and threatened the De-facto Complainant.

3) Averments alleged on Behalf of the Petitioners / Accused 3 & 4 :-

3.1) The learned Counsel appearing for Petitioners A3 and A4 contended that During the pendency of the investigation, on 29.09.2023 and 12.10.2023, registered Sale Deeds (Doc. Nos. 7968/2023, 7969/2023, and 8260/2023) were executed by A3 (as Power Agent of his daughter K. Saleemah) and A4 in favor of the De-facto Complainant's son (Narendra Babu) and daughter-in-law (Aruna) upon receiving full consideration. Since sale deeds have been registered in favor of the De-facto Complainant's family members, the grievance stands completely resolved. Continuing the criminal prosecution against A3 and A4 is an abuse of the judicial process.

3.2) The delay or initial non-performance of a sale agreement amounts to a mere civil breach of contract. The De-facto Complainant has given a civil transaction a criminal color.

Advanced Age: Petitioners A3 and A4 are senior citizens aged 81 and 71 years respectively, with no prior criminal intent or history, and ought not to be subjected to the rigors of trial.

4) Objections raised on Behalf of the Prosecution :-

4.1) The learned Assistant Public Prosecutor, relying on the counter-report and materials on record, argued that, the ingredients of Sections 406, 420, and 120-B IPC were fully satisfied when the accused suppressed the true Patta extent (1,506 sq. ft. vs. 2,400 sq. ft.) and collected a massive advance of Rs.71,000,000/-. The subsequent execution of sale deeds during investigation under compulsion or compromise does not automatically compound or wipe out the pre-existing criminal offences of fraud, breach of trust, and conspiracy.

4.2) At the stage of framing charges under Section 239 Cr.P.C., the Court is only required to see if there exists a prima facie case or grave suspicion against the accused based on the police report and statements recorded under Section 161(3) Cr.P.C. Defense documents and post-FIR conduct are matters for trial.

5) Point for Determination :-

Whether the materials placed on record by the prosecution disclose a prima facie case or grave suspicion against Petitioners / Accused Nos. 3 and 4 to proceed with the trial, or whether the subsequent execution of sale deeds and grounds raised entitle them to be discharged under Section 239 Cr.P.C.?

6) Discussion and Consideration of this Court :-

6.1) It is well settled that at the stage of framing charges, the Court is not to weigh the evidence as if evaluating a trial. The Court must examine whether the allegations, taken on face value, disclose the essential ingredients of the alleged offences or give rise to a grave suspicion against the accused. The primary ground urged by A3 and A4 is that they executed registered sale deeds (Doc. Nos. 7968/2023, 7969/2023, and 8260/2023) in September and October 2023 in favor of the complainant's family. While this fact may be relevant during trial or for sentencing, a subsequent settlement or partial fulfillment of contract during police investigation does not automatically erase a completed offence of cheating or criminal breach of trust if dishonest intention existed at the inception.

6.2) The Final Report and Section 161(3) Cr.P.C. statements (LW1, LW2, Sub-Registrar LW6, Bank Managers LW3 to LW5) specifically detail the role played by Petitioners A3 and A4 in executing sale agreements (Doc. Nos. 2907/2022, 2916/2022, and 2917/2022) and receiving advance amounts totaling Rs.15,000,000/-

directly into their respective accounts. The allegations regarding misrepresentation of land area and lack of clear title Patta apply to the entire joint transaction involving A1 to A4.

6.3) While the Petitioners are octogenarian and septuagenarian senior citizens, advanced age alone cannot be a ground for legal discharge under Section 239 Cr.P.C. when material evidence raising grave suspicion exists on record. Whether the dispute is purely civil or laced with initial fraudulent intent is a triable issue.

7) Decision of this Court :-

In the result, Crl.M.P.No: 1435/2025 in C.C.No: 2930/2024 is hereby DISMISSED.

// This order was directly dictated by me through voice recording, subsequently transcribed and completed by the Steno-Typist and corrected by me.//

MURALITHARAN

Digitally signed by MURALITHARAN
Date: 2026.07.28 17:40:45 +0530

XXVIII Metropolitan Magistrate,
Egmore, Chennai.