BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.873 and 250 of 2026
and
Crl.M.P.(MD)Nos.949 and 254 of 2026

Crl.O.P.(MD).No.873 of 2026

1. R.Sakthivel Raja

2. S.Manikandan ... Petitioner/Accused

Vs.

1. The State of Tamilnadu,
Rep. by the Inspector of Police,
CCB, Madurai City,
Crime No. 74 of 2025
.... Respondent / Complainant

2. Rajendra Mulani
..... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the record pertaining to the Impugned FIR in Crime no.74 of 2025 dated 19.12.2025 on the file of the respondent Police CCB, Madurai City and quash the same as illegal so far as the petitioners is concerned.

For Petitioners : Mr.C.Muthusaravanan

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

For R-2 : Mr.S.Chandrasekar

Crl.O.P.(MD).No. 250 of 2026

1. N. Visalakshi

2. N. Meenakshi

... Petitioners / A1 & A4

Vs.

1. The State represented by
The Inspector of Police,
CCB-III, Madurai City.

2. Rajendra Mulani,
Authorised Representative,
M/s.Khimji Poonja & Co.,
K.P.House, Meadow Street,
Mumbai, Maharashtra.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records of the FIR in Crime no.74 of 2025 dated 19.12.2025 on the file of the 1st respondent police and quash the same in so far as the petitioner are concerned.

For Petitioner : Mr.G.Prabhu Rajadurai,
For Mr.I.Robert Chandra Kumar

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

For R-2 : Mr.S.Chandrasekaran

COMMON ORDER

These Criminal Original Petitions have been filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashment of the First Information Report in Crime No.74 of 2025 dated 19.12.2025 registered on the file of the first respondent police for the alleged offences under Sections 296(b), 318(3), 321 and 351(2) of the Bharatiya Nyaya Sanhita, 2023.

2. Since both the petitions arise out of the very same FIR, involve interconnected allegations and common questions of fact and law, they are taken up together and disposed of by this common order.

3. The case presents a familiar yet legally delicate situation where a long-standing commercial dispute, coupled with competing claims over immovable properties allegedly offered as collateral security, has eventually culminated in criminal prosecution after more than two decades from the foundational transaction. The central issue before this Court is whether the allegations, even if

accepted in their entirety, disclose the commission of cognizable criminal offences warranting investigation, or whether the criminal law has been invoked as a pressure mechanism in aid of a stale civil claim.

Case of the prosecution:

4. The prosecution case, in brief, is that the second respondent firm, namely M/s.Khimji Poonja & Co., Mumbai, was engaged in the business of supply and sale of cotton and had commercial dealings with M/s.Shree Visalakshi Mills Private Limited, Madurai, from the year 1995 onwards.

5. According to the *de facto* complainant, the mill defaulted in payment of amounts due towards supply of cotton. Consequently, on 10.08.2000, an agreement was entered into acknowledging the outstanding dues and promising repayment with interest. Thereafter, on 29.04.2002, certain persons connected with the mill allegedly executed a promissory note treating the liability as their personal liability.

6. The further allegation is that on 02.05.2002, title deeds relating to approximately 35.37 acres of lands situated in Kulasekarankottai Village, Vadipatti Taluk, Madurai District, were deposited by way of collateral security and mortgage by deposit of title deeds in favour of the *de facto* complainant firm. The complainant claims continued custody of the original title deeds.

7. It is the further case of the prosecution that during October 2024, the accused persons sold an extent of 2 acres and 42 cents from the aforesaid lands to A-9, namely Sakthivel Raja. It is alleged that such sale was preceded by a false police complaint before Vadipatti Police Station alleging loss of original documents and issuance of a newspaper publication suppressing the fact that the original documents were allegedly lying with the complainant firm.

8. The prosecution further alleges that the accused intentionally created false records, dishonestly concealed the subsisting mortgage security and alienated the property in order to defeat the rights of the complainant and thereby caused wrongful loss to the complainant and wrongful gain to themselves.

9. It is also alleged that on 06.09.2025, when the representative of the complainant firm visited Madurai and met the accused persons, they abused him in filthy language and criminally intimidated him with threats to his life. On the basis of the said complaint, the impugned FIR came to be registered for offences under Sections 296(b), 318(3), 321 and 351(2) BNS.

Grounds for quash:

10. The petitioners therein contend that A-9 is a bona fide purchaser for valuable consideration who purchased the property only after conducting due diligence including verification of encumbrance certificates, revenue records, legal opinion, public notice and obtaining non-traceable certificate regarding original documents. It is contended that the alleged mortgage or deposit of title deeds was never reflected in any encumbrance certificate and therefore the purchasers had absolutely no knowledge about any alleged security interest claimed by the complainant.

11. The petitioners further contend that they were never parties to the original commercial transaction, promissory note,

mortgage arrangement or proceedings before the Debt Recovery Tribunal and hence cannot be implicated merely because they purchased a portion of the property.

12. The petitioners further contend that the dispute is purely civil in nature relating to enforcement of a debt allegedly arising in the year 2000/2002 and that the complainant is attempting to convert a time-barred civil dispute into a criminal prosecution. It is further contended that no ingredients of cheating, criminal breach of trust, criminal intimidation or obscenity are made out against A-9 and A-10.

13. The petitioners therein contend that they are women aged about 77 and 72 years respectively and had no role whatsoever in the business dealings of the company. According to them, they were neither signatories to the alleged promissory note nor executants of the alleged deposit of title deeds and they were not concerned with the alleged police complaint regarding missing documents or publication in newspaper.

14. It is their further case that the company itself had gone into liquidation long back and substantial portions of the properties had already been sold in DRT/SARFAESI proceedings many years ago. The petitioners contend that the entire complaint is hopelessly barred by limitation and that the complainant, having remained silent for more than two decades, cannot now criminalise legal heirs and family members. It is also contended that even assuming the allegations to be true, the facts merely disclose a civil dispute concerning enforceability of mortgage security and title rights.

Arguments on either side:

15. The learned counsels appearing for the petitioners elaborately contended that the very foundation of the dispute is an admitted commercial transaction relating to supply of cotton and repayment of money. According to them, the dispute emanates from a business arrangement dating back to the years 2000 and 2002 and therefore lacks the essential ingredients of criminality. It was submitted that the complainant himself admits execution of promissory note and deposit of title deeds as collateral security.

Hence, the relationship between parties was purely contractual and commercial in nature.

16. The learned counsels would submit that the remedy, if any, available to the complainant lies only before the competent civil forum for enforcement of mortgage rights or recovery proceedings and not through criminal prosecution. The learned counsels further contended that dishonest intention at the inception of the transaction is the *sine qua non* for attracting the offence of cheating. In the present case, according to the petitioners, the very fact that properties worth several crores were allegedly offered as collateral security itself demonstrates absence of dishonest intention from inception.

17. It was further argued that a mortgage by deposit of title deeds does not create an absolute embargo against alienation of the property and that at best the purchaser takes the property subject to existing rights, if any. The learned counsels strongly relied upon the enormous delay. According to them, the promissory note is of the year 2002 and even assuming a valid mortgage existed, the

complainant failed to take appropriate proceedings within the limitation period prescribed under law.

18. The learned counsels would further submit that the allegations under Sections 296(b) and 351(2) BNS are vague, omnibus and bereft of particulars. No specific obscene words are stated. No overt act constituting criminal intimidation has been properly disclosed. The learned counsels also submitted that A-9 and A-10 are bona fide purchasers and there are absolutely no allegations demonstrating conspiracy or collusion on their part. Reliance was placed upon the decisions of the Hon'ble Supreme Court in ***Mohammed Ibrahim and others v. State of Bihar and another***[1], ***Sheila Sebastian v. R. Jawaharaj***[2], ***Arshad Neyaz Khan v. State of Jharkhand***[3] and several judgments cautioning against criminalisation of civil disputes.

19. Per contra, the learned counsel appearing for the *de facto* complainant submitted that the case cannot be characterised as a mere civil dispute since the allegations disclose deliberate acts of

1 (2009) 8 SCC 751

2 AIR 2018 SC 2434

3 2025 SCC Online SC 2058

deception and suppression. According to the complainant, despite being fully aware that the original title deeds were deposited with the complainant as collateral security, the accused falsely represented before the police authorities that the documents were lost and thereby obtained non-traceable certificates and duplicate records.

20. It was contended that the accused thereafter deliberately alienated the secured property with dishonest intention to defeat the complainant's rights. The learned counsel further relied upon statements allegedly made before the Debt Recovery Tribunal acknowledging the mortgage arrangement and submitted that the accused were fully aware of the complainant's security interest.

21. It was argued that the issue is not merely about alienation of property but about fraudulent concealment and creation of false records. The learned Additional Public Prosecutor submitted that the FIR clearly discloses cognizable offences and that at the stage of investigation this Court ought not to conduct a mini-trial or adjudicate disputed questions relating to validity of mortgage, limitation or enforceability of security.

22. Reliance was placed upon the judgment of the Hon'ble Supreme Court in ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***[4] to contend that quashing at FIR stage must be exercised sparingly.

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

Points for consideration:

24. In the light of the rival submissions, the following points arise for consideration:

i. Whether the allegations in the impugned FIR, taken at face value, disclose the ingredients of offences under Sections 296(b), 318(3), 321 and 351(2) BNS?

ii. Whether the dispute is predominantly civil and commercial in nature?

iii. Whether continuation of the impugned criminal proceedings would amount to abuse of process of law warranting interference under Section 528 BNSS?

4 2021 SCC Online SC 315

Analysis:

25. A careful reading of the FIR unmistakably reveals that the genesis of the dispute lies in a commercial transaction involving supply of cotton by the complainant firm to Visalakshi Mills between the years 1995 and 2000.The complainant himself admits that the liability was acknowledged through an agreement dated 10.08.2000 and thereafter by a promissory note dated 29.04.2002. The complainant further asserts that title deeds were deposited as collateral security on 02.05.2002. Thus, the very substratum of the complaint is undeniably contractual and commercial.

26. The subsequent grievance of the complainant arises from alleged alienation of portions of the property many years later. Significantly, the complaint itself reveals that substantial portions of the properties had already been subjected to DRT/SARFAESI proceedings and auction sales years earlier. The admitted existence of long-standing civil proceedings, mortgage disputes and DRT litigation overwhelmingly demonstrates the civil complexion of the dispute.

27. The offence of cheating requires fraudulent or dishonest intention at the inception of the transaction. The complaint itself demonstrates that the parties were engaged in sustained commercial dealings over several years and that securities were allegedly furnished towards repayment.

28. If the complainant's own version is accepted, the accused had deposited title deeds and executed promissory notes in favour of the complainant. Such conduct is fundamentally inconsistent with a preconceived fraudulent intention existing from inception. The subsequent alienation of property decades later may at best give rise to disputes concerning enforceability of mortgage or priority of rights. However, such acts do not automatically translate into the offence of cheating.

29. More importantly, insofar as A-9 and A-10 are concerned, there are absolutely no averments demonstrating that they participated in the original commercial transaction or possessed dishonest intention at the inception thereof. The allegations against

them are essentially founded upon purchase of property under a registered sale deed.

30. The encumbrance certificate admittedly did not reflect the alleged mortgage. The alleged security interest itself was unregistered. Therefore, the allegation that A-9 and A-10 knowingly participated in cheating is wholly inferential and unsupported by concrete material.

31. The allegations relating to Section 321 BNS are equally unsustainable. The complainant alleges suppression of existing mortgage and filing of complaint regarding missing documents. However, the essential dispute revolves around competing claims over title deeds and enforceability of collateral security.

32. Whether the complainant had subsisting enforceable rights, whether the mortgage remained legally alive, whether the accused genuinely believed the documents to be lost and whether the complainant retained lawful entitlement over the title deeds are all

deeply disputed civil questions. Such questions cannot automatically attract criminal liability.

33. The allegations relating to use of obscene language are vague and omnibus. The FIR does not disclose the specific words allegedly uttered, the exact circumstances in which they were spoken or how the statutory ingredients stood satisfied. Mere general allegations of abusive conduct without particulars cannot sustain prosecution under Section 296(b) BNS.

34. Equally, the allegations concerning criminal intimidation are bald and generalized. There is no material demonstrating imminent threat, actual alarm or intention sufficient to attract Section 351(2) BNS. Courts have consistently held that vague allegations of threat casually incorporated in commercial disputes cannot be permitted to become instruments of criminal prosecution.

35. Another striking feature is the extraordinary delay. The foundational transactions are admittedly of the years 2000 and 2002. The FIR came to be registered only in December 2025. The

complainant seeks to explain the delay by referring to subsequent sale transactions. However, the core rights asserted by the complainant undeniably arise out of alleged debt and mortgage transactions more than two decades old.

36. Even according to the complainant, proceedings were pending before the DRT long back and auction sales had already taken place in respect of substantial extents of the very same properties. The prolonged silence and inaction over decades significantly reinforces the civil nature of the dispute.

37. Insofar as A-1 and A-4 are concerned, the allegations are conspicuously omnibus. The complaint itself indicates that the principal dealings were allegedly undertaken by Thiagarajan and others connected with the company. The petitioners in Crl.O.P.(MD) No.250 of 2026 are elderly women aged about 77 and 72 years respectively.

38. No specific overt act constituting cheating, intimidation or fraudulent inducement is attributed to them. Mere relationship with

principal accused or shareholding connection in a company cannot justify criminal prosecution in the absence of specific allegations.

39. Undoubtedly, the inherent power of this Court must be exercised sparingly and with circumspection. Equally, it is well settled that where criminal proceedings are manifestly attended with mala fide intention or where the allegations predominantly disclose civil disputes dressed in criminal colour, the High Court is duty bound to prevent abuse of process. The present case falls squarely within such category.

40. Continuation of criminal investigation in the present factual matrix would amount to permitting criminal law to be employed as a coercive mechanism for enforcement of disputed and stale civil claims. This Court is therefore satisfied that the allegations, even if accepted in entirety, do not disclose the essential ingredients of the offences alleged against the petitioners.

Epilogue:

41. Commercial disputes involving debts, mortgages, collateral securities and title claims frequently generate intense acrimony between parties. However, criminal law cannot be allowed to become a substitute for civil remedies nor a weapon for recovery of disputed dues after prolonged inaction.

42. The criminal justice system cannot be converted into a forum for exerting pressure in aid of doubtful or time-barred civil claims. Permitting such prosecutions to continue would seriously dilute the distinction between civil wrongs and criminal offences. This Court is therefore of the considered view that continuation of the impugned FIR against the petitioners would amount to abuse of process of law.

43. Accordingly,

(i) Crl.O.P.(MD) No.873 of 2026 is allowed;

(ii) Crl.O.P.(MD) No.250 of 2026 is allowed;

(iii) the FIR in Crime No.74 of 2025 dated 19.12.2025 on the file of the first respondent police is hereby quashed insofar as the petitioners in both the Criminal Original Petitions are concerned;

(iv) consequently, connected miscellaneous petitions are closed.

44. It is however made clear that this order shall not preclude the de facto complainant from working out any civil remedy available in law before the competent forum, if so advised.

01.06.2026

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

To

1. The Inspector of Police,
CCB, Madurai City.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)Nos.873 and 250 of 2026

01.06.2026