



Non-Reportable

CRIMINAL APPEAL NO. _____ OF 2025
[@ SPECIAL LEAVE PETITION (CRIMINAL) NO. 12380 OF 2025]

Versus

UNION TERRITORY OF PUDUCHERRY ...RESPONDENT(S)

JUDGMENT

1. Leave granted.
2. The present appeal has been filed by the appellant-original accused no.2 against the order dated 15.04.2025 rendered by the High Court of Judicature at Madras in Criminal Revision Case No. 1430 of 2024 by which the Criminal Revision Case filed by the present appellant has been dismissed.
3. Brief facts leading to the filing of the present appeal are as under:-
 - (i) The original informant, Ms. Amutha filed FIR being No.0032 before CBCID Police Station, Puducherry against

the Original Accused No.1 namely Gunasekaran for committing an offence punishable under Section 420 of Indian Penal Code (for short "IPC"). The said FIR came to be lodged on 13.10.2022. Mainly, it has been alleged in the said FIR that the original accused, Gunasekaran made a representation that he is having a vacant plot and wanted to sell the same. The informant inspected the vacant plot and decided to purchase the same and thereafter on 13.05.2015, an unregistered sale agreement for purchase of the vacant plot in question was executed. It was decided to purchase the same for total amount of Rs. 1,64,10,000/-. The amount of Rs. 15,00,000/- was paid by way of cash and thereafter on 17.02.2016, a sum of Rs.55,00,000/- was paid to accused No.1. Necessary endorsement was also made by the accused. Thereafter, two cheques each for Rs.10,00,000/- were given to the accused.

- (ii) It is further alleged that thereafter it was revealed that accused was not having any title to sell the said plot and thereafter when contacted the accused gave inconsistent reply and assured that he will execute the sale deed in

favour of the informant. It is further alleged that the accused received a sum of Rs.92,00,000/- from the informant, despite which he has refused to register and execute the sale deed in favour of the informant and thereby has committed the alleged offence punishable under Section 420 of the IPC.

(iii) It further transpires from the record that after investigation, the investigating officer filed the chargesheet against the original accused as well as the present appellant, who is the son of the original accused, for committing offences punishable under Sections 420, 406, 294(b), 506 (i) of IPC read with Section 34 of the IPC.

(iv) It is alleged in the chargesheet that accused no. 1, Gunasekaran had obtained the power of Attorney from the original owners of the property on 03.03.2022 and executed the sale deed in favour of the present appellant (accused no. 2), who is the son of the accused No.1 for a sum of Rs. 60,00,00/-. It is alleged that the present appellant-accused no.2 had registered the property in question in his name knowing fully well that accused no.

1, Gunasekaran had not returned the amount of the sale consideration received from the informant. It is also alleged that the accused No.2 (appellant herein) had no income of his own to purchase the property since he is a student.

(v) The appellant as well as accused No.1 jointly filed petition under Section 239 of the Code of Criminal Procedure for discharge before the concerned Chief Judicial Magistrate at Puducherry. The Chief Judicial Magistrate, vide order dated 15.03.2024 dismissed the said application.

(vi) The present appellant with the accused no. 1 jointly filed the criminal revision application before the High Court of Judicature at Madras. However, the High Court has dismissed the said criminal revision application vide impugned order and therefore the present appellant-original accused no.2 has preferred the present appeal.

4. Heard learned senior counsel for the petitioner and learned senior counsel for the respondent.

5. Learned counsel for the appellant would mainly contend that the transaction in question took place in the year 2015 between original accused No. 1 and the informant. Even as

per the case of the informant, the original accused no. 1 made a representation with regard to the plot in question and thereafter as alleged by the informant, the particular amount was given by him to the original accused no. 1. At the relevant point of time i.e. in the year 2015, the present appellant was a minor. Thus, no representation was made by the present appellant to the informant nor any inducement was given by the present appellant. The appellant is nowhere connected with the transaction in question at the relevant point of time.

6. Thus, the ingredients of the alleged offences are not at all made out.
7. Learned Counsel would further submit that merely because the present appellant has purchased the plot in the year 2022 from accused no. 1, it cannot be inferred that the appellant has committed the alleged offences. Thus, the trial court ought to have allowed the discharge application filed by the present appellant. Similarly, the High Court has also committed an error while not entertaining the criminal revision application qua the present appellant. Learned

counsel therefore urged that present appeal be allowed by quashing and setting aside the impugned orders passed by the High Court as well as the trial court and thereby allow the discharge application filed by the present appellant.

8. On the other hand, learned counsel appearing on behalf of the respondent has opposed the present appeal. Learned counsel has mainly contented that the original accused no. 1 who is the father of the present appellant has sold the plot in question to the present appellant in the year 2022. When the property was sold to the present appellant, the appellant was major and in fact the appellant was a student at the relevant point of time, despite which he paid the amount of consideration to the original accused no. 1. Thus, the investigating officer has filed the chargesheet against both the accused for committing the alleged offences. It is also contended that the High Court has rightly observed that after considering the entire material and the allegation in the chargesheet and the statement of the witnesses, *prima facie* material to proceed with the case against both the accused are made out and therefore the Court cannot conduct a roving enquiry to testify the veracity of the

documents while deciding the petition under Section 239 of the Code of Criminal Procedure. Learned Counsel therefore has contended that the present appeal be dismissed.

9. Having heard the learned counsels for the parties and having gone through the materials placed on record, it transpires that the informant has filed the FIR under Section 420 of IPC against the original accused No. 1 only. If the allegations levelled in the said FIR is carefully examined, it would reveal that the transaction between the informant and the accused no. 1 took place in the year 2015. The allegation of making representation as well as endorsement was made against the accused no.1. Further, the payment was made to the accused no.1 in the year 2015-2016. It is not in dispute that in the year 2015-2016, the appellant herein was minor. It is not the case of the informant that the appellant herein has made any representation or there was any inducement on the part of the present appellant. It is not even the case of the informant that he had made the payment to the present appellant for the transaction with regard to the plot in question.

10. From the record, it further transpires that now the only allegation against the appellant herein is that he had purchased the plot in question from the original accused no. 1 in the year 2022. Thus, when the transaction took place between the informant and original accused no. 1 in the year 2015-2016, the appellant was minor, hence ingredients of offences punishable under Section 406 and 420 of the IPC read with Section 34 of the IPC are not made out qua appellant. Further, it is not the case of the informant that the appellant herein has given any threat nor any criminal intimidation was made by the appellant.
11. Looking to the overall facts and circumstances of the present case, we are of the view that there is no material placed on record from which it can be said that the appellant herein has committed the alleged offences and therefore the concerned trial court as well as the High Court have committed an error while dismissing the discharge application filed by the present appellant and while dismissing their criminal revision application filed by the appellant herein.

12. Accordingly, the order dated 15.03.2024 passed by the trial court in Cr.M.P.No.11118/2023 in CC. No.588/2023 is hereby quashed and set aside qua appellant. Further, order dated 15.04.2025 passed by the High Court of Judicature at Madras in Criminal Revision Case No.1430/2024 is also quashed and set aside qua appellant. Consequently, the application submitted by the appellant under Section 239 of the Code of Criminal Procedure for discharge is allowed qua the appellant. The proceedings pending pursuant to the FIR No. 0032 dated 13.10.2022 registered before CBCID PS, Puducherry and the chargesheet filed pursuant to the said FIR qua the appellant herein are also quashed and set aside. Appeal is accordingly allowed.

.....J.
[SANJAY KAROL]

.....J.
[VIPUL M. PANCHOLI]

**NEW DELHI,
OCTOBER 10, 2025.**