



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2025
(ARISING OUT OF SLP (CRL.) NO. 11715/2024)

UMA MAHESWARI & ANR. . . . APPELLANT (S)

VERSUS

THE STATE & ANR. RESPONDENT (S)

J U D G M E N T

NAGARATHNA, J.

Leave granted.

2. Being aggrieved by the order dated 22.11.2023 passed in Criminal O.P. No. 24649 of 2023 by the Madras High Court, the appellants are before this Court. By the said order, their application filed under Section 482 of the Code of Criminal Procedure, 1973 (for short, "CrPC") has been dismissed.

3. Briefly stated, the facts of the case as per the prosecution are that one Vasanthi, sister of respondent No.2/complainant, availed a loan of Rupees Twenty Lakhs only (Rs. 20,00,000/-) from appellant No.2/accused No.5. As security for the said loan, Vasanthi had executed a Power of Attorney in favour of the appellant

No.2/accused No.5 in respect of the property bearing R.S. No. 153/1/1, Cad No. 356, Patta No. 1023 (Plot No. 12) to an extent of 1980 sq ft. situate at Villanur Revenue Village (No.32) ('suit property').

4. By way of the said Power of Attorney, it is alleged that appellant No.1/accused No.4 fraudulently executed a sale deed in respect of the suit property in favour of his wife who, in the present case, is appellant No.1/accused No.4. Appellant No.1/accused No.4 subsequently sold the suit property to accused No.2 (Devaki) for a consideration of Rupees Twenty Lakhs only (Rs. 20,00,000/-). It is alleged that on the date of the execution of the sale deed in favour of accused No.2, i.e., 16.09.2013, the accused persons, in furtherance of a common intention to dishonestly grab the suit property owned by Vasanthi, threatened her as well as her sons with their life.

5. Later, on 19.09.2013, respondent No.2/complainant filed a missing complaint before the Inspector of Police, P.S. Villianur, Puducherry, alleging that his sister/Vasanthi and her three sons had been missing since 18.09.2013. On the basis of the aforesaid complaint, FIR bearing No. 192/2013 was registered with P.S. Villianur, Puducherry for "Men Missing". Upon

investigation, Vasanthi and her family were found at the residence of one Nagar Pillai. Subsequently, based on the statements of Vasanthi and her family, the charging sections in FIR No. 192/2013 were altered from "Men Missing" to Sections 405, 420, 386, 506 (part 2) read with Section 34 of the IPC. Upon completion of the investigation, chargesheet bearing No. 164/2015 was filed against five accused persons, including the appellants(s) herein, under Sections 405, 421, 386, 506 (part 2) read with Section 34 and Section 120B of the IPC.

6. Being Aggrieved, accused Nos. 1 and 2 preferred a petition bearing Crl. O.P. No. 148/2020 before the High Court seeking quashing of the criminal proceedings in C.C. No. 233/2018 pending on the file of Judicial Magistrate No. III, Puducherry.

7. By order dated 05.08.2022, the High Court allowed Crl. O.P. No. 148/2020 and quashed the proceedings as against accused Nos. 1 and 2 on the ground that respondent No.2/complainant had preferred a complaint against accused Nos. 1 and 2 with an ulterior motive. It was further noted that the said accused persons had purchased the suit property from appellant No.1/accused No.4 and there was no material on record to prove that

accused No.1 and 2 were in any way involved in the alleged offences. High Court also took note of the fact that respondent No.2/complainant himself had affixed the signature of the witness to the sale deed executed by appellant no.1/accused No.4 in favour of accused No.2. Moreover, in light of the frequent alteration reports which were found to be contradictory and the fact that respondent No.2/complainant did not appear to contest the said quashing petition, High Court was inclined to quash the criminal proceedings pending against accused Nos.1 and 2.

8. Subsequently, the appellant(s) herein preferred a criminal petition bearing CrI. O.P. No. 24649/2023 before the High Court seeking quashing of the proceedings in C.C. No. 233/2018 arising out of FIR No. 192/2013.

9. By the impugned order dated 22.11.2023, the High Court declined to quash the criminal proceedings as against appellant(s) herein on the ground that the validity of the sale transaction between appellant(s) and Vasanthi appeared to be hit by fraud and misrepresentation, thereby forming part of the criminal prosecution. The said finding was arrived at in view of the fact that the Power of Attorney was executed by

Vasanthi in favour of appellant No.2/accused No.4 only as a security for the loan availed. However, by making use of the said Power of Attorney, appellant No.2/accused No.4 transferred the suit property to his own wife, appellant No.1 herein.

10. Hence, the present appeal.

11. We have heard Shri Vinodh Kanna B., learned counsel for the appellant(s) and Shri Aravindh S., learned standing counsel for the respondent(s) - Union Territory of Puducherry and perused the material on record.

12. During the course of submissions, learned counsel for the appellant(s) drew our attention to order dated 05.08.2022 passed by the learned Single Judge of the High Court in Criminal O.P. No.148 of 2020 to contend that the petitioners therein, who are none other than the purchasers from the appellants herein, were granted the relief under Section 482 of the CrPC inasmuch as their Criminal Original Petition was allowed and the charge sheet in C.C. No.233 of 2018 pending on the file of the Judicial Magistrate-III, Puducherry was quashed as against them.

13. Learned counsel for the appellants submitted that Criminal O.P. No.148 of 2020 was disposed of on 05.08.2022 and thereafter Criminal O.P. No.24649 of 2023 was filed by the appellants herein before the High Court. Since the appellants herein and the petitioners before the High Court in the earlier matter were all part of the same transaction in respect of which a common FIR was filed and they were all arrayed as accused, the High Court ought to have considered order dated 05.08.2022 passed in Criminal O.P. No.148 of 2020 and granted relief to the appellants herein.

14. Learned counsel for the appellants submitted that the aforesaid order has attained finality, and therefore, the petitioners therein being accused Nos.1 and 2 have been granted the relief but the appellants herein being accused Nos.4 and 5 have been denied the said relief. It is not known as to what has happened to accused No.3. Therefore, on the principle of parity and on the fact that the accused are all part of the very same FIR and when once it has been quashed insofar as accused Nos. 1 and 2 are concerned, the said relief may also be extended to the appellants, who are accused Nos. 4 and 5. He therefore, submitted that impugned order may be set aside and the appeal may be allowed.

15. *Per contra*, learned standing counsel for the respondent - Union Territory of Puducherry submitted that the role of the appellants herein is different and distinct from what has been attributed to accused Nos.1 and 2, who were merely purchasers. However, the appellants herein are the ones who sold the subject property to accused Nos.1 and 2. Hence, the complaint was filed as against all of them. He submitted that there is no merit in this appeal and that the impugned order may not be interfered with and the appeal may be dismissed.

16. We have considered the submissions advanced at the Bar and we find that the High Court ought to have considered the order dated 05.08.2022 passed in Criminal O.P. No.148 of 2020 and applied the same to the case of the appellants herein. But, there is no reference to the said order in the impugned order. The High Court ought to have applied the aforesaid order in the instant case.

17. Also as FIR No.192 of 2013 dated 19.09.2013 was filed in respect of all the accused, and therefore, the case of the appellants herein ought to have been allowed and the criminal complaint ought to have been quashed.

18. In the circumstances, we find that the criminal complaint as against the appellants herein also ought to be quashed. Hence, the same is quashed. Consequently, FIR No. 192 of 2013 and CC No.233 of 2018 pending on the file of the learned Judicial Magistrate-III, Puducherry, stand quashed.

19. The appeal is allowed and disposed of in the aforesaid terms.

Pending application(s), if any, shall stand disposed of.

.....J.
(B.V. NAGARATHNA)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
DECEMBER 02, 2025