IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 04.08.2026

Orders Pronounced on : **28.08.2026**

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.No.22894 of 2025
and
Crl.M.P.Nos.15637 of 2025 & 2172 of 2026

G.Suyambulingaraja .. Petitioner

Vs

1. The Inspector of Police,
Central Crime Branch,
Office of Commissioner of Police,
Race Course Road,
Coimbatore.

2. Kesavapandian .. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for records of the First Information Report in Crime No.74 of 2024 on the file of the first respondent Police and quash the same as abuse of process of law.

For Petitioner : Mr.Sharath Chandran

For Respondents : Mr.M.Mohamed Riyaz,
Govt. Advocate (Crl. Side) for R1
Mr.N.R.Elango, Senior Counsel
for Mr.Chenthoori Pugazendi for R2

O R D E R

The prayer in the criminal original petition is to call for the records relating to the First Information Report in Crime No.74 of 2024 and to quash the same.

2. The petitioner, who is said to be working as Zonal Development Manager, City Union Company, is arrayed as accused No.5 in the said case. The case is registered for the alleged offences under Sections 465, 468, 471 and 120(B) of the Indian Penal Code.

3. Upon hearing the learned counsel on either side and perusing the materials and records of the case, the gist of the allegation is that the defacto complainant alleges that the accused, who are officers of the Bank, created a false the Guarantee Agreement, Letter of Revival, Cash Credit / Over Draft Agreement, Term Loan Agreement, Demand Promissory Note, Hypothecation Agreement, Consent Letter, Mandate Letter, Sanctioned Letter Copy and other documents by forging his signature, his father Murugan's

signature, his mother Ponnuthai's signature and his brother Arun Pandiyan's signature. They used the forged documents as genuine, filed O.A.No.173 of 2021, defrauded the Court and obtained a decree in their favour. The complaint also sets out other particulars of earlier transactions between the de facto complainant and the Bank, and states that he had earlier filed a criminal case in Crime No.14 of 2020, and that the Bank had lodged a criminal complaint in Crime No.180 of 2021. On the strength of the complaint, a case is registered for the alleged offences under Sections 465, 468, 468,471 and 120(B) of the IPC.

4. *Mr Sarath Chandran*, learned counsel appearing for the petitioner, after taking this Court through the various proceedings between the parties, would submit that the Bank had filed O.A.No.173 of 2021 before the Debts Recovery Tribunal, Coimbatore, on 17.08.2020. Pending those proceedings, the de facto complainant had filed W.P.(MD)No.12480 of 2020 before the Madurai Bench of this Court seeking a mandamus to disburse the Covid-19 loan. In the order passed in the writ petition, the Court recorded that the de facto

complainant was a willful defaulter and that the Debts Recovery Tribunal proceedings were also pending against him; therefore, the writ petition was dismissed. The order was also confirmed by the Division Bench in W.A.(MD)No.1277 of 2020 by judgment dated 05.01.2021. Only thereafter, on 31.10.2022, the Debts Recovery Tribunal, Coimbatore, passed an order in O.A.No.173 of 2021, setting the de facto complainant ex parte and decreeing the Bank's claim for a sum of Rs.5,08,09,959.35. Only in 2024, the de facto complainant filed an application to set aside the ex parte decree, and the same is pending before the Debts Recovery Tribunal.

5. The learned counsel would also invite this Court's attention to the related proceedings. The first submission made by the learned counsel is that, when a decree has already been passed by the Tribunal based on alleged concocted documents, there cannot be a prosecution with reference to the correctness or otherwise of the same. Allowing the prosecution would virtually amount to permitting the Police to pronounce upon the correctness or otherwise of the decree of the Debts Recovery Tribunal. No complaint was made to the Tribunal,

nor did it emanate from the Tribunal. The veracity of the documents must first be disputed before the Tribunal, and only if the Tribunal agrees with the petitioner's contention can any prosecution be made. The complaint made is not entertainable unless the de facto complainant succeeds in his application to set aside the ex parte decree. The learned counsel would further submit that it would also amount to gross abuse of process of law. When the defacto complainant has availed the loan, the same having been utilised, and no money is alleged to have been misappropriated or utilised by the accused for their personal benefit, in the absence of any dishonest intention, no offence under Sections 465, 468, 471 or 420 of the IPC can be alleged against the Bank officials. In any event, there are no specific allegations as far as the present petitioner is concerned, and as such, the First Information Report is liable to be quashed.

6. In support of his contention, the learned counsel would rely upon the judgment of the Division Bench of the Bombay High Court in ***Sashidhar Jadgishan vs. State of Maharastra and others (2026 SCC OnLine Bombay 2879),*** where, after considering the

similar proceedings pending before the Debts Recovery Tribunal and the prosecution, the Court found that the prosecution amounted to gross abuse of criminal process, being founded purely on civil background and recovery proceedings, and that when the civil proceedings have attained finality through the orders of the Debts Recovery Tribunal and the Court.

7. Per contra, *Mr Mohamed Riyaz*, learned Government Advocate (Criminal Side), appearing for the first respondent, would submit that when the complaint lodged discloses cognizable offences, the case has been registered and is under investigation. *Prima facie,* the allegation is that the particular Bank has been indulging in creating documents, *suo motu* sanctioning loans and crediting them to the account of NPA, to show as if loans are being serviced, and thereafter, if the borrower defaults, showing the falsely created account as NPA. Whether the allegations *prima facie* point out ingredients of the various offences, investigation has to be done.

8. *Mr N.R. Elango*, learned Senior Counsel appearing on behalf of the second respondent / defacto complainant, would submit that the *modus operandi* of the particular Bank and its officials, namely, City Union Bank, is repeatedly the same, and several complaints are filed against them. To escape auditing concerns when the amounts under the loan accounts are due, without even asking the borrower, they cook up documents, sanction an additional loan, credit it to the borrower's account, and show it as if the amount was utilised to service the earlier loan, thereby causing loss to the borrower by capitalising the loans and the interest, and finally asking for huge sums from the borrower. In the process, they completely forge the loan agreement and other forms/documents required for the loans without the borrower's knowledge. The same is adopted in the instant case, and hence the complaint. The forgery is done outside the Tribunal, and as such, it is not necessary that the complaint should emanate from the Tribunal, or that any application under Section 340 of the Cr.P.C is essential. The ex parte decree is being contested by the de facto complainant, and it is not conclusive proof that the documents are genuine enough to quash the criminal proceedings.

There is no abuse of process. Hence, the learned Senior Counsel prays for dismissal of the petition.

9. Upon conclusion of the arguments, this Court questioned both sides as to what happened to the loan amounts: whether they were entirely subsumed and taken back by the Bank or whether the petitioner had dealt with the aforesaid amounts. An affidavit of the present officer of the Bank is also filed in this regard, and a rejoinder to the said affidavit is also filed by the defacto complainant.

10. The prayer is to quash the First Information Report. This Court can exercise that power if the case falls within any one of the canons enunciated by the Hon'ble Supreme Court in ***State of Haryana and others vs. Bhajanlal and others (1992 Supp (1) SCC 335).*** It must be noted that the allegation in the First Information Report is that the Bank officials have forged the relevant loan documents. That did not happen in the Court or during the proceedings, and therefore, it is not necessary that the complaint should emanate from the Debts Recovery Tribunal, Coimbatore.

Further, it is true that, based on those documents, a decree has been passed. The mere continuation of the investigation or prosecution cannot, in any manner, result in the pronouncement of a decree as invalid or in the nullification of the recovery certificate issued against the de facto complainant. That can happen only in the said proceedings before the Debts Recovery Tribunal. However, the question remains whether the offences can be investigated at all.

11. It is settled law that, in relation to criminal proceedings, if only the civil court decree is one determining rights *in rem* or is declaratory in nature, as per Section 41 of the Evidence Act, 1872, it would be conclusive and binding with reference to the criminal proceedings, and nothing against it can be pleaded or acted upon. Otherwise, the Judgment of the Civil Court is only a relevant fact in the criminal proceedings. A useful reference in this regard can be made to this Court's judgment in ***Gurumoorthi and another vs. Mohanasundaram Rajamany (Crl.R.C.No.927 of 2021 - paragraph 6.1 and 6.2).*** The law laid down by the Hon’ble Supreme Court of India in ***K.G. Premshankar -Vs- Inspector of Police (2002 8 SCC***

87) and ***S. Ramu and others -Vs- Pushpavenkatavenu and others (Crl.R.C.Nos.971 and 938 of 2014)*** was followed. Going by the dictum, in this case also the Judgment of the Debt Recovery Tribunal is not a Judgments *in rem* as per Section 41 of the Evidence Act, relating to matrimonial, admiralty or insolvency jurisdiction and therefore is not conclusively binding before the Criminal Court. This is not judgment that relates to the matter of 'public nature' so as to be a relevant fact as per Section 42 of the Evidence Act. Therefore, the Criminal Court is neither conclusively bound. Therefore, the decision in the DRT proceedings is not a bar to registering a case and proceeding with the investigation. Further, the Debt Recovery Tribunal has not expressly considered the issue or rendered a finding that the documents are not forged and are genuine. Therefore, it cannot be said that, without the judgment being set aside, the very investigation cannot proceed.

12. The argument made on behalf of the de facto complainant that the original documents were never produced before the Debts Recovery Tribunal also has to be noted. Only in this context

did this Court direct that it be ascertained whether the de facto complainant, at the relevant times, had knowledge of the crediting of the additional loan into his account and whether he had utilised the same, as that would categorically prove dishonest intention or otherwise and would also be fatal to the offence of forgery if there is no dishonest intention. If the fruits are realised by the de facto complainant, that is, if the de facto complainant had enjoyed the entire loan accounts, the allegations of forgery would become groundless.

13. Under the said background, an affidavit is filed by the present Chief Manager, (Legal Cell) at the City Union Bank. Paragraph No.3 is verbatim extracted hereunder:

> *3. The following are discernable from perusal of the bank statement of the current account (510909010112187) to which all the disputed amounts were credited to the borrower, Natures Touch Clothing Private Limited:*
>
> *• On 29.06.2019, an amount of Rs.1300 was debited towards payment of courier charges. His balance as on that date stood at a negative balance of Rs (-) 99,582.90.*

- *On the same date, the additional loan of Rs 7,90,000 sought and obtained by the borrower was credited to the account as could be seen from the relevant entries (Loan 1-501812080053729). The balance stood at Rs.6,90,417 after setting off Rs.99,582.90 which had been overdrawn*
- *After credit of the said sum, on the same day ie., 29.06.2019 the borrower has transferred a sum of Rs 1,29,000 to the account of Winner Tex & Trading, a guarantor which is a proprietary concern run by the de-facto complainant.*
- *He has thereafter transferred the following amount through his Internet banking for sums of Rs.16,000 (twice) towards payment of Tamil Nadu Electricity Board and Rs.4000 to the account of Winner Tex & Trading, a guarantor which is a proprietary concern run by the de-facto complainant on 29.06.2019 and 30.06.2019 respectively. Though the borrower is contesting his signature on the above credit facilities as forged, he has utilized the above amounts for his personal use through his Internet banking.*
- *On 4th September 2019, the balance stood at Rs.180.80. The borrower requested and obtained an*

additional loan of Rs.25,00,000 which was credited to his account on 07.09.2019 (Loan 2-501812080055530).

- *On the same day (07.09.2019), the borrower through his internet banking transferred an amount of Rs.1,00,008.85 to one Doshna, Rs.7012.95 to SP internet and Rs.20,002.95 to Sri Ramiah. The above amount/s was transferred by way of Instant Money Transfer System (IMPS) through his internet banking. Further, the borrower transferred an amount of Rs.4,70,000 to one Aruthran by way of Cheque.*

- *On 27th December 2019, the balance of the account was Rs.8065.13 after the borrower had transferred a sum of Rs.1,00,008.85 to one Manoranjen by way of Instant Money Transfer System (IMPS).*
- *On 30th December 2019, a loan of Rs 7 lakhs was credited to his account* ***(Loan 3-501812080059366).***
- *On 31st December 2019, he has transferred Rs.43,008.85 and Rs.20,002.95 to Manoranjen by way of Instant Money Transfer System (IMPS) through his internet banking. This transaction has never been disputed.*
- *Thus, it is respectfully submitted that the*

borrower has, on each occasion, availed various credit facilities which was duly credited to his account and has spent the same at his own will and volition which is clearly evidenced by the bank statements appended to this affidavit. Though he is contesting the appropriation of the loan amount to his other credit facilities, which is due and payable, he has conveniently utilized the part of all the credit facilities for his personal use. More particularly, almost all his personal utilization was made through his Internet banking.

- *As a matter of fact, the conduct and true color of the borrower is evident from the observations contained in the order of the DRT in its judgment and order dated in 31.10.2023 passed in O.A. No. 173 of 2021 to the following effect:*

"x. On 30.12.2019, Applicant sanctioned CUM-OSL Loan Of Rs.7,00,000/-(Rupees Seven Lakhs only) to D1 for the purpose of servicing overdue interest in respect of the other loans of D1. Though directors of D1 promised to execute the loan and security documents, they failed to do so, despite repeated requests and demands. Taking advantage of the same, D2 is now disputing the said loan and also lodged a false police complaint. Since the D1 is benefited by the said loan

as the loan amount was credited to its account, D1 is Liable for the same notwithstanding the fact that no document was executed by Dl in respect of the said loan. D1 is liable to repay the said loan with interest @ 12% per annum."

14. This again is refuted by way of rejoinder and it is relevant to extract paragraph No.5 of the affidavit of the defacto complainant which reads as under:

5. For the sake of brevity and clarity, the falsity and the poly employed in the affidavit dated 06.08.2026 filed by the said Mr.RM.Renganath has been demonstrated hereunder:-

BANK'S FALSE NARRATIVE/CLAIM	***FACTS AS SEEN FROM RECORDS***
Loan 1 (Rs.7.90 Lakhs): 501812080053729 Disbursed on 29.06.2019- Claims that the Complainant utilized these funds for operational payments (TNEB, Winner Tex)	• ***•Forged records - Unsanctioned loan account -*** *Out of Rs.7,90,000/-, Bank immediately siphoned off Rs.8,20,061/- to pay overdues/interests.* • *•The Complainant derived zero benefit or liquidity from this credit facility. Routine operational charges like TNEB bills were automated debits from the current account proceeds of the complainant and not the*

	pertinent loan proceeds.
Loan 2 (Rs.25.00 Lakhs) (501812080055530: Sanctioned on 07.09.2019 - The Bank highlights this sanction to prove a pattern of active borrowing and regular disbursement utilization.	*The Complainant explicitly admits and does not challenge this facility. It was a legitimate, requested, and properly documented loan.The Bank has deliberately featured this valid transaction in its affidavit to create a confusion of facts, hoping to cloak the fraudulent nature of the unauthorized loans under the umbrella of an acmitted facility.*
Loan 3: 501812080059366 (Rs.7,00,000/- dated 30.12.2019) - The Bank claims that Rs. 7,00,000/- was credited on 30.12.2019, out of which the Complainant actively transferred Rs.43,008.85 and Rs.20,002.95 (totaling Rs. 63,011.80) to one Manoranjan via IMPS on 31.12.2019.	***Forged records Unsanctioned loan account -*** *On 30.12.2019 and 31.12.2019, the Bank unilaterally extracted Rs.6,99,366/- from this credit to service its own ledger demands:* • •*Loan 152020010027725 : Rs. 3,21,000/- & Rs. 1,31,000/-* • •*Loan 152020010053729 : Rs. 30,000/-* • •*Loan 152020010055530: Rs. 86,000/-* • •*Loan 152020010018884: Rs. 97,000/-* • •*PCFC Interest, Taxes, ECGC, Courier Charges: Rs. 34,366/-*

	The Bank's claim that the IMPS payments of Rs.63,011.80 were drawn from the loan proceeds is demonstrably false. On 31.12.2019, the Current Account received legitimate, independent credits totalling Rs.66,686/- (Rs.42,063/- + 24,623/-) directly from the Government of India Customs Department as Duty Drawback refunds. The IMPS payment to Manoranjan was executed strictly against these verified Customs receipts, ***NOT*** *from the loan proceeds.*

15. I have also gone through the extracts of the statement of accounts, which are enclosed by both the parties. I am not able to conclude positively that the de facto complainant, at all times material, knew that the additional loans were being sanctioned, or whether he utilised the loan amount for his business purposes or dealt with the money. Nor can it be ruled out. It is alleged that some minor portions have been used by him, as stated in the affidavit filed by the Bank. The de facto complainant has disputed this, stating that the statements of accounts are now clubbed together to show as if the

monies are being used by the petitioner. Thus, these facts are again in dispute and have to be looked into by the Investigating Officer during the course of the investigation. On the face of it, I am not able to conclude that the de facto complainant knew about the crediting of the loans and was utilising the amounts, and, in hindsight, turning back and claiming concoction of documents. This fact also requires further investigation.

16. As far as the argument that the petitioner had no role is concerned, when the allegations are made against all the officials involved, the role played by each of the accused has also to be found out only during the course of the investigation, if any offence is made out, and a final report is filed. Therefore, that submission cannot be answered at this stage when the investigation is in progress. As a matter of fact, the judgment relied upon by the learned counsel for the petitioner in ***Sashidhar Jagdishan*** relates to offences under Sections 406, 409 & 420 IPC, and in that background, it has to be held that when the balance outstanding has been determined and attained finality by the Debts Recovery Tribunal, the allegations of Sections

420, 406 & 409 IPC are not made out. However, in the instant case, the primary allegations are all of wholesale forgery of documents.

17. In view thereof, I am not in a position to hold that the First Information Report is a complete abuse of process or that it is barred on account of the decree already granted by the Debts Recovery Tribunal. All the contentions raised are kept open for consideration during the course of the investigation and for the parties to take at the appropriate stage.

18. With the aforesaid observations, this Criminal Original Petition stands disposed of. Connected miscellaneous petitions are closed.

28.08.2026

Neutral Citation : Yes / No

vji

To

1. The Inspector of Police,
   Central Crime Branch,
   Office of Commissioner of Police,
   Race Course Road, Coimbatore.

2. The Debts Recovery Tribunal,
   Coimbatore.

3. The Public Prosecutor,
   High Court of Madras.

D.BHARATHA CHAKRAVARTHY, J.

vji

PRE-DELIVERY ORDER IN

Crl.O.P.No.22894 of 2025
and
Crl.M.P.Nos.15637 of 2025 & 2172 of 2026

28.08.2026