

Crl.RC(MD) No.887 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30-04-2026

PRONOUNCED ON : 22.07.2026

CORAM:

THE HONOURABLE MR JUSTICE MOHAMMED SHAFFIQ

CRL RC(MD). No.887 of 2023

S. Venkatesan

.. Petitioner

Vs.

1. M.Kumaresan

2. K.Jeyavel

3. Inspector of Police,
Devathanapatti Police Station.

... Respondents

PRAYER :- Criminal Revision Case filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.1957 of 2023 dated 26 June 2023, passed by Judicial Magistrate, Periyakulam, Theni and set aside the same and consequently direct the respondent No.3 to conduct enquiry on the complaint dated 08.07.2022 and register the FIR against the accused persons by allowing this Revision Petition.



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For petitioner : Mr.Suresh Issac Paul

For Respondent : Mr.A.Balaji
for R1 and R2

Mr.A.Thiruvadikumar
Additional Public Prosecutor
for R3

ORDER

The present Criminal Revision Case has been filed challenging the order 26.06.2023 passed in Crl.M.P.No.1957 of 2023 by the Judicial Magistrate, Periyakulam, whereby petition filed under Section 156(3) of the Criminal Procedure Code was rejected.

2. Brief facts:

2.1. Revision petitioner would submit that property comprised in Survey No. 597/2 situated at Silvarpatti Village, Periyakulam Taluk, measuring an extent of 1 Acre 12 cents stands in his name and he had fenced the same. Respondents 1 and 2 trespassed the said property on 08.07.2022 at about 11.00 AM along with 15 identifiable but unknown

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persons and caused extensive damage to the fence and iron posts. He would

submit that when petitioner rushed therein, he was abused and threatened.

He lodged a complaint with third respondent on 08.07.2022, which was acknowledged in CSR No.439/2022. Since no action was taken, revision petitioner submitted a representation dated 02.12.2022 before the Superintendent of Police, Theni District, following which a petition under Section 156(3) of the Criminal Procedure Code was filed before Judicial Magistrate, Periyakulam in Crl.M.P.No.1957 of 2023, informing that the acts of respondent attracted offence under Sections 147, 148, 294(b), 441, 506(ii) IPC and Section 3(1) of TNPPDL Act. The Judicial Magistrate vide order dated 26.06.2023 rejected the said petition. Aggrieved, petitioner has filed this criminal revision case.

3. Criminal Revision Case has been filed on the following grounds:

i) The Lower Court failed to note that petitioner is in absolute actual possession of the subject property, there has been a criminal trespass and threatened and abused using obscene language by private



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respondents herein attracting Sections 147, 148, 294(b), 441, 506(ii) IPC

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and Section 3(1) of TNPPDL Act.

ii) The Lower Court without enquiring as to the veracity of the allegation dismissed the application on non application of mind, and thus non-est.

iii) The Lower Court failed to see that complaint attracts IPC Offences mentioned in the petition but dismissed it erroneously.

4. Case of respondents:

4.1. The complaint of petitioner was acknowledged in CSR No. 439/2022, petitioner did not turn up for enquiry instead sent a relative to receive the CSR Copy. Further, it would be pertinent to note that as regards the property in dispute, Section 145 Cr.P.C. proceedings had been initiated and the same is pending before the Revenue Divisional Officer, Periyakulam wherein rival parties had entered appearance. Further, Section 145 proceedings had been initiated on the basis of FIR in Crime No.45 of 2021 on the file of third respondent. That suit in O.S.No. 93 of 2022 on the file of the learned District Munsif Court, Periyakulam is pending between petitioner and respondents 1 and 2. The said suit had been filed after the alleged occurrence.



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4.2. Third respondent/Inspector of Police is entitled to conduct a preliminary enquiry to ascertain the genuineness of the complaint as mandated in *Lalita Kumari's case reported in (2013) 14 S.C.R. 713*. In the present case, as mandated in the guidelines of *Lalita Kumari*, third respondent on enquiry found that there was existing civil dispute and even prior to the lodging of the complaint, Section 145 Cr.P.C. proceedings had been initiated and the same was pending. Subsequently, the said proceedings has been closed vide order dated 06.12.2023 with the following observations:

“ As a civil suit relating to the disputed property has been filed by the petitioner and is pending before the Periyakulam District Civil Court in OS No.93 of 2022, both parties are directed to abide by the final decision of the Civil Court as and when the judgment is delivered.”

4.3. During the course of hearing in the present Revision, the case filed pertaining to the above CSR was circulated as well as receipt of CSR on behalf of petitioner is acknowledged. It is submitted that nearly 3 ½ years have lapsed since the alleged occurrence, it may thus not be feasible/purposeful for third respondent to gather the materials.



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4.4. Further in the complaint lodged before the Inspector of Police, Devathanapatti Police Station dated 08.07.2022, involvement of 25 persons (both male and female) is stated, whereas the petition filed under Section 156(3) of Cr.P.C states about the involvement of 15 persons. Similarly, in the police complaint dated 08.07.2022, it is informed that on knowing the occurrence, daughter and wife of petitioner rushed to the scene of occurrence and were abused and intimidated whereas in the petition filed under Section 156(3) of Cr.P.C. it is stated as if petitioner was abused and threatened. The contradictions noted above goes to the very root of the issue in hand, more particularly, the credibility of the complaint. It is then submitted that petitioner may proceed under Section 200 Cr.P.C.

5. Heard both sides.

6. This Court finds that there is merit in the submission of respondents for the following reasons:



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i) It appears that complaint itself is without any basis and is an attempt to give a criminal colour to a dispute which is essentially civil in nature, a practice which has been deprecated.

ii) It is trite that matters primarily civil in nature would not be entertained under Section 156(3) of Cr.P.C. This Court is conscious of the view that the same transaction can give rise to cause of action which are civil as well as criminal in nature. However, in the present case, as found in the impugned order ingredients of alleged offences have not been shown to exist and thus the impugned order does not appear to be perverse or arbitrary, warranting interference. In this regard, it may be relevant to refer to the following judgments, wherein the scope of Section 156(3) of Cr.P.C., vis-a-vis entertaining complaints against disputes which are primarily civil in nature has been deprecated. It may be relevant to refer to the following decisions:

a) *Priyanka Srivastava v. State of U.P.*, reported in (2015) 6 SCC 287. The relevant portions are extracted hereunder:

“30. In our considered opinion, a stage has come in this country where Section 156(3) CrPC



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applications are to be supported by an affidavit duly sworn by the applicant who seeks the invocation of the jurisdiction of the Magistrate. That apart, in an appropriate case, the learned Magistrate would be well advised to verify the truth and also can verify the veracity of the allegations. This affidavit can make the applicant more responsible. We are compelled to say so as such kind of applications are being filed in a routine manner without taking any responsibility whatsoever only to harass certain persons. That apart, it becomes more disturbing and alarming when one tries to pick up people who are passing orders under a statutory provision which can be challenged under the framework of the said Act or under Article 226 of the Constitution of India. But it cannot be done to take undue advantage in a criminal court as if somebody is determined to settle the scores.

31. We have already indicated that there has to be prior applications under Sections 154(1) and 154(3) while filing a petition under Section 156(3). Both the aspects should be clearly spelt out in the application and necessary documents to that effect shall be filed. The warrant for giving a direction that an application under Section

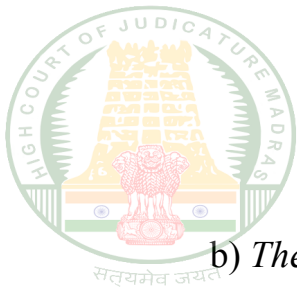


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156(3) be supported by an affidavit is so that the person making the application should be conscious and also endeavour to see that no false affidavit is made. It is because once an affidavit is found to be false, he will be liable for prosecution in accordance with law. This will deter him to casually invoke the authority of the Magistrate under Section 156(3). That apart, we have already stated that the veracity of the same can also be verified by the learned Magistrate, regard being had to the nature of allegations of the case. We are compelled to say so as a number of cases pertaining to fiscal sphere, matrimonial dispute/family disputes, commercial offences, medical negligence cases, corruption cases and the cases where there is abnormal delay/laches in initiating criminal prosecution, as are illustrated in Lalita Kumari [(2014) 2 SCC 1 : (2014) 1 SCC (Cri) 524] are being filed. That apart, the learned Magistrate would also be aware of the delay in lodging of the FIR.”



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b) *Thermax Ltd. v. K.M. Johny*, reported in (2011) 13 SCC 412:

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“34. The principles enunciated from the above quoted decisions clearly show that for proceeding under Section 156(3) of the Code, the complaint must disclose relevant material ingredients of Sections 405, 406, 420 read with Section 34 IPC. If there is a flavour of civil nature, the same cannot be agitated in the form of criminal proceeding. If there is huge delay and in order to avoid the period of limitation, it cannot be resorted to as a criminal proceeding.”

c) *Athul Dhale v. State*, reported in 2019 SCC OnLine Mad 23406

“35. It has to see that, whether a matter which is essentially of a civil nature has been given a cloak of a criminal offence. Where the ingredients required to constitute a criminal offence are not made out from a bare reading of the complaint, the continuation of the criminal proceeding will constitute an abuse of the process of the Court. In the present case, the averments in the complaint, read on its face, do not disclose the ingredients necessary to constitute offences under the Penal Code. An attempt has been made by the second respondent to cloak a civil dispute with a criminal nature despite the absence of the ingredients necessary to constitute a criminal offence. The complaint filed by the second respondent against the petitioner constitutes an abuse of process of Court and it is liable to be quashed.”



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iii) While the complaint dated 08.07.2022 states that petitioner's

daughter and wife were abused and intimidated whereas in the petition filed under Section 156(3) of Cr.P.C, it is shown as though it is only the petitioner who was abused and threatened. Secondly, while the complaint states that more than 25 persons were involved whereas the petition under Section 156(3) of Cr.P.C, only speaks about involvement of 15 persons. The above contradiction also indicates that respondents are right in their submission that these apparent contradictions renders the credibility of the complaint itself questionable.

iv) This Court also finds that there has been a lapse of 3 ½ years since the alleged occurrence and thus rejection of the petition under Section 156(3) of Cr.P.C, cannot be found fault.

7. There was an attempt by petitioner to circulate certain photographs which was stated to be not furnished before the Judicial Magistrate. This Court finds that additional documents cannot be produced in revision petition while examining legality or otherwise of the order passed by the trial court under Section 156(3) of Cr.P.C. In this regard, it may be relevant to refer to the judgment of this Court in the



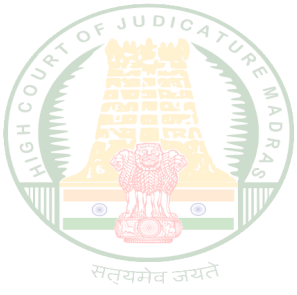
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case of *Calcutta Chemicals and Ltd. v. Taiyeb Yusufbhai*

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Vakharia, reported in 1999 SCC OnLine Mad 585. The relevant portion is extracted hereunder:

“11. Further, as a question of law, it has to be held that in a revision, a party cannot be permitted to file an application to adduce further evidence. It has been held in the decision reported in The Collector of Madras, v. A.N. Gajendran, 1988 (2) L.W. 49, by M.N. Chandurkar, C.J., as he then was, that at the stage of revision, such a request cannot be urged. It has also been ruled in the decision reported in Voora Mahalakshamma v. Veera Reddy, 1994 MLJ 383, that it is well settled that no additional evidence can be let in at the stage of Revision. It is stated there that “even though the working of Section 25 of the Tamil Nadu Buildings (Lease and Rent Control) Act is wider than Section 15 of the Civil Procedure Code, yet, the Court is of the view that no additional evidence can be let in at revision stage.” The same view was earlier taken by this Court in the decision reported in Bank of Baroda rep. by its Chairman v. Mahendra Dadha & 2 others, 1982 TNLJ 319, where it has been held that in view of the legal position, the Court will not be justified in receiving additional evidence while sitting in its revisional jurisdiction.”



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8. In the light of the above discussion, this Court finds that the impugned order does not warrant interference. Petitioner is at liberty to work out his remedies in the manner known to law including Section 200 of Cr.PC.

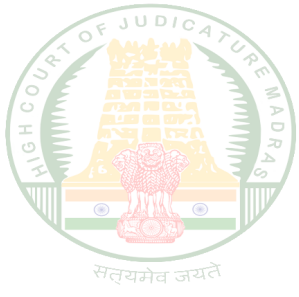
9. With the above observations, the Criminal Revision Case stands disposed of.

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Index: Yes/No
Neutral Citation : Yes/No
Speaking / Non Speaking order
mrn/anu

To:

1. The Judicial Magistrate, Periyakulam, Theni.
2. Inspector of Police,
Devathanapatti Police Station.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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MOHAMMED SHAFFIQ, J

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