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Crl.RC.No.124 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.RC.No.124 of 2025 and

Crl.M.P.No.1086 of 2025

P.Ayinu

... Petitioner

Vs.

1.P.Saravanan

2. N.Palani

... Respondents

Prayer: Criminal Revision Case filed under Section 397 read with Section 401 Cr.P.C./Section 438 read with 442 of B.N.S.S. 2023 to set aside the order passed in C.M.P.No.82 of 2024 in C.C.No.88 of 2022 dated 09.01.2025 on the file of the District Munsif cum Judicial Magistrate, Vikravandi.

For Petitioner : Mr.Giri Nagu Kumar

For Respondents : Mr.D.Senthil Kumar



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ORDER

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This Criminal Revision Case has been filed by the petitioner to set aside the order passed in C.M.P.No.82 of 2024 in C.C.No.88 of 2022 dated 09.01.2025 on the file of the District Munsif cum Judicial Magistrate, Vikravandi.

2. The case of the petitioner is that he filed a private complaint under Section 200 Cr.P.C. against the respondents and the same was taken on file in C.C.No.88 of 2022 on the file of the District Munsif cum Judicial Magistrate, Vikravandi and charges were also framed against the accused for the offence under Section 419 read with 109 IPC. There are five witness excluding the petitioner/complainant. Out of the five, three witnesses are private persons and two are public servants including the Revenue Tahsildar (Vikravandi) and Inspector of Police. After completion of evidence on both side, when the case was posted for arguments, the petitioner filed a petition before the trial Court in Criminal Miscellaneous Petition No.82 of 2024 under Section 267(2) B.N.S.S.



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2023/244(2) of Cr.P.C. to issue summons to the Tahsildhar for examination.

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The said petition was dismissed by order dated 09.01.2025. Aggrieved by the same, the present revision is filed.

3. The learned counsel for the petitioner submitted that the Tahsildhar was already shown as a witness in the list of witnesses and the petitioner was under the bonafide impression that the certificate issued by the Tahsildhar would be enough to prove his case and therefore, he did not examine the Tahsildhar as a witness. Subsequently, after examination of defense side witness, the petitioner was bonafidely advised that non examination of the Tahsildhar may affect the case and therefore, he wanted to examine the Tahsildhar. Hence, he filed a petition under Section 267 (2) of B.N.S.S. 2023 for examination of the Tahsildhar as one of the witnesses in this case, but the said petition was dismissed by the trial Court.

4. The learned counsel further submitted that though the certificate issued by the Tahsildhar was marked as Ex.P.17, in the impugned order, the



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Magistrate has stated that the certificate issued by the Tahsildhar was not

marked in this case, which would prejudice to the case of the petitioner.

Therefore, the order of the Magistrate has to be set aside.

5. The learned counsel for the respondents submitted that the petitioner already moved the Writ Court by filing a petition in W.P.No.6074 of 2023 and this Court by order dated 17.07.2023, dismissed the same with liberty to the petitioner to approach the civil Court to establish his case. He further submitted that the petitioner suppressed the material facts and he has not approached the Court with clean hands. The petitioner has also not stated as to why he had not examined the Tahsildhar as one of the witnesses even though he was cited as a witness in the list of witnesses. Therefore, the Magistrate dismissed the petition on the ground that the petitioner has not given any valid reason for examining the Tahsildhar after the defence witness was over and the matter was listed for arguments. The learned counsel submitted that only in order to protract the case, the petitioner is filing petition after petition and also went to the extent of



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filing writ petition before the Writ Court and thereafter, he has filed the present

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revision. Hence, there is no merits in this revision.

6. Heard both sides and perused the materials available on record.

7. Admittedly the petitioner is the complainant in C.C. No.88 of 2022 and in order to substantiate the case, on the side of the petitioner, 4 witnesses were examined as P.W.1 to P.W.4 and after closing of evidence on the side of the complainant, on the side of the respondents, D.W.1 was examined and thereafter, the matter was posted for arguments and at that stage, the petitioner filed the petition invoking Section 267 (2) of B.N.S.S. 2023 for examination of the Tahsildhar as one of the witnesses.

8. It is seen from the records and also from the petition filed by the petitioner before the trial Court in Criminal Miscellaneous Petition No.82 of 2024 that the petitioner has not given any reason as to why he had not examined the Tahsildhar when opportunity was given to him to substantiate his case by letting oral and documentary evidence. The petitioner examined 4



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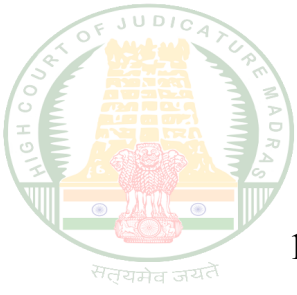
witnesses and also made endorsement and based on which, his evidence

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closed. Therefore, the proceedings under Section 313 was completed and the case was posted for defense witness and the respondents also examined their witness and thereafter, the examination of witnesses were closed and the matter was posted for arguments and at that stage, the petitioner filed the petition for examination of Tahsildhar. Since the petitioner had not given any reason as to why he had not examined the Tahsildhar when opportunity was given to him even though the Tahsildhar was cited as a witness in the list of witnesses, the learned Magistrate dismissed the said petition.

9. This Court does not find any perversity or reason to interfere with the order passed by the Magistrate.

10. However, it is seen that in the chief examination of the petitioner/P.W.1, the death certificate issued by the Tahsildar has been marked as Ex.P.17. Therefore, the petitioner is at liberty to argue all the points before the Magistrate at the time of advancing his arguments.



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11. With the above observations, this Criminal Revision Case is disposed

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of. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

The District Munsif cum Judicial Magistrate,
Vikravandi



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P.VELMURUGAN. J.

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