



WEB COPY

Crl.RC.No.362 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.08.2025

Delivered on : 21.08.2025

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

**Crl.RC.No.362 of 2025**  
**and**  
**Crl.M.P.No.3590 of 2025**

1.Jayasudha

3.K.V.Kathiravan

... Petitioners

Vs.

1.T.Jaisudha

2.The Superintendent of Police,  
Chengalpattu District,  
Chengalpattu.

3.The Inspector of Police,  
District Crime Branch (Land Grabbing),  
O/o.Superintendent of Police,  
Chengalpattu District,  
Chengalpattu.

... Respondents

**PRAYER:** Criminal Revision Petition filed under Section 438 R/w.442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 praying to set aside the order dated 31.01.2025 passed in Crl.M.P.No.275 of 2025 by the learned Judicial Magistrate-II, Chengalpattu.



WEB COPY

Crl.RC.No.362 of 2025



For Petitioners : Mr.M.Deivanandam  
For R1 : Mr.M.Senthil Kumar  
For R2& R3 : Mr.A.Gopinath  
Government Advocate (Crl.Side)

### **ORDER**

This Criminal Revision petition has been filed challenging the order dated 31.01.2025 in Crl.M.P.No.275 of 2025 on the file of the Principal Sessions Judge, Krishnagiri, thereby seeking a direction to direct the 2<sup>nd</sup> respondent under section 175(3) of BNSS to investigate the case.

2. The 1<sup>st</sup> respondent lodged a complaint alleging that her father intended to purchase a property of 11 cents comprised in Survey Nos.31/15, 31/17B, 31/29 and 31/28C, in Devaneri Village, Hamlet of old No.162, New No.156, Mahabalipuram Village, Thirukazhukundaram Taluk, Kancheepuram District, and the said purchase was made via a registered sale deed dated 24.01.2001, vide document No.302/2001. Subsequently, the petitioner and her husband moved to U.S.A., and her father also moved to Singapore. After some years, upon returning to Chennai, she visited the subject property for cleaning. While so, the petitioners herein who are also named as Jayasudha W/o.

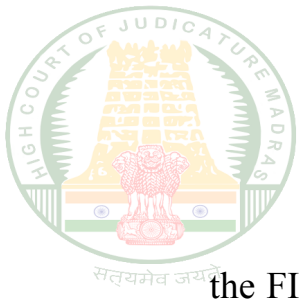


WEB COPY

K.V.Kathiravan, allegedly forged documents and registered the property in her husband's favour through a settlement deed dated 09.06.2023. Her husband later mortgaged the said property and obtained a loan. A complaint was immediately lodged, and the 3<sup>rd</sup> respondent issued a CSR. However, no action was taken, leading the 1<sup>st</sup> respondent to file a petition under section 175(3) of BNSS.

3. The learned Magistrate, by an order dated 31.01.2025, in Crl.M.P.No.275 of 2025, directed the 3<sup>rd</sup> respondent to investigate the case.

4. In pursuant to the direction, the 3<sup>rd</sup> respondent registered FIR in Crime No.4 of 2025 for the offences under sections, 468, 471, 419 and 420 of IPC as against the petitioners and others including the Inspector of Police, who issued a non-traceable certificate on the complaint lodged by the 1<sup>st</sup> respondent herein and the Sub Registrar who registered the settlement deed in favour of the 2<sup>nd</sup> petitioner. Now the investigation is pending in Crime No.4 of 2025. The 1<sup>st</sup> and 2<sup>nd</sup> accused filed this revision challenging the order passed under section 175 (3) of BNSS.



WEB COPY

5. The learned counsel for the petitioners would submit that after the FIR was registered, the subject property was reconveyed in favour of the 1<sup>st</sup> respondent herein. Further, the 1<sup>st</sup> respondent failed to comply the provision under section 175(3) of BNSS, as she directly filed a petition under this section before the learned Magistrate immediately after receiving the CSR for her complaint. Further the learned Magistrate failed to comply the provisions under section 175(4) of BNSS and mechanically directed the 3<sup>rd</sup> respondent to investigate the complaint.

6. Per contra, the learned counsel for the 1<sup>st</sup> respondent would submit that the petitioners are being an accused have no locus to challenge the order passed in Crl.M.P.No.275 of 2025. Since the 3<sup>rd</sup> respondent has now registered FIR in Crime No.4 of 2025 as directed by the learned Magistrate, the present revision has become infructuous. If at all there are any grievances over registration of the FIR, the petitioners ought to have challenged the FIR in the manner known to law. He further submitted that the learned Magistrate followed the procedures as contemplated under section 175 (3) and (4) of the Act and directed the 3<sup>rd</sup> respondent to investigate the complaint. The 1<sup>st</sup> respondent also duly complied with the provisions under section 175(3) of BNSS; after



WEB COPY

lodging a complaint before the Commissioner of Police and the same was forwarded to Deputy Commissioner of Police and subsequently reached the 3<sup>rd</sup> respondent herein. Although the 1<sup>st</sup> respondent was issued a CSR, the 3<sup>rd</sup> respondent failed to register a FIR, hence, the 1<sup>st</sup> respondent had rightly approached the learned Magistrate under section 175(3) of BNSS.

7. The leaned Government Advocate (CrI.Side) appearing for the respondents 2 and 3 would submit that the petitioners, being an accused in Crime No.4 of 2025, have no locus to challenge the order passed under section 175(3) of BNSS and it would interfere with the investigation. In fact, after issuance of direction, the 3<sup>rd</sup> respondent now registered the FIR and it is pending for investigation. At this stage of proceedings under section 175(3) of BNSS, the petitioners have no audience. Even assuming that the 1<sup>st</sup> respondent failed to follow the procedure as contemplated under section 175(3) of BNSS, the order passed by the learned Magistrate would not be without jurisdiction and would not stand vitiated, if the allegations in the complaint discloses the commission of a cognizable offence. Therefore, the order passed by the learned Magistrate under section 175(3) does not warrant any interference by this Court.



WEB COPY

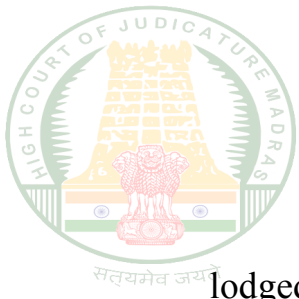
8. Heard the learned counsel for the petitioners and learned counsel for the respondents and perused the materials available on record.

9. On the complaint lodged by the 1<sup>st</sup> respondent, she was issued a CSR by the 3<sup>rd</sup> respondent. However, thereafter there was no action taken and as such the 1<sup>st</sup> respondent was constrained to file a petition under section 175(3) of BNSS. On the submissions made by the learned counsel for the petitioners, the following points cropped up for determination:

1. Whether an application under section 175(3) of BNSS could filed without approaching the police authorities?

2. Whether the order passed in Crl.M.P.No.275 of 2025 on the file of the learned Judicial Magistrate-II, Chengalpattu dated 31.01.2025 is without application of mind and without hearing the parties as contemplated under section 175(3) and 175(4) of BNSS?

3. Whether this revision would become infructuous by the order passed by the learned Magistrate now complied with by the 3<sup>rd</sup> respondent by registering an FIR in Crime No.4 of 2025?



WEB COPY

10. On perusal of records, it is revealed that the 1<sup>st</sup> respondent lodged a complaint before the Superintendent of Police, Chengalpet District on 30.12.2024. Thereafter, the said complaint was forwarded to the 3<sup>rd</sup> respondent herein, who did not issue any CSR. Consequently, the 1<sup>st</sup> respondent approached the learned Magistrate under section 175(3) of BNSS. There is no evidence to show that the 1<sup>st</sup> respondent subsequently approached a superior officer by way of any representation stating that no action has been taken by the 3<sup>rd</sup> respondent herein.

11. It is relevant to extract the provisions under **Section 175(3) of BNSS** as under:

*“175(3): Any Magistrate empowered under section 210 may after considering the application supported by an affidavit made under sub-section(4) of Section 173 and after making such inquiry as he thinks necessary and submission made in this regard by the police officer, order such an investigation as above mentioned.”*

12. Accordingly, the petition under section 175(3) shall be supported by an affidavit. An investigation can be ordered after enquiry



WEB COPY

and receipt of submissions made by the police officer. However, on perusal of the petition filed under section 175(3) of BNSS revealed that it was not supported with any affidavit. Further it is revealed that after forwarding the complaint from the Superintendent of Police, Chengalpet to the 3<sup>rd</sup> respondent, the 1<sup>st</sup> respondent failed to submit any representation or complaint before the immediate superior officer. Further the learned Magistrate failed to receive any report from the 3<sup>rd</sup> respondent and also there was no notice to the 3<sup>rd</sup> respondent before the issuance of direction. In this regard, the learned counsel for the petitioners relied upon the judgement of Honourable Supreme Court in the case of **Om Prakash Ambadkar Vs.The State of Maharashtra and others made in Criminal Appeal No.352 of 2020**, in para 35 held as follows:

*“35.Further, by requiring the Magistrate to consider the submissions made by the concerned police officer before proceeding to issue directions under section 175(3), BNSS has affixed greater accountability on the police officer responsible for registering FIRs under section 173. Mandating the Magistrate to consider the submissions of the concerned police officer also ensures that the Magistrate applies his mind judicially while considering both the complaint and the*



WEB COPY

Crl.RC.No.362 of 2025



*submissions of the police officer thereby ensuring that the requirement of passing reasoned orders is complied with in a more effective and comprehensive manner.”*

13. Thus it is clear that the submissions of the 3<sup>rd</sup> respondent is mandatory before issuance of direction to investigate. Since the submissions of the 3<sup>rd</sup> respondent ensures that the Magistrate applies his mind judicially while considering the complaint and the submissions of the police officer as stated supra. In this case, the learned Magistrate failed to issue any notice to the 3<sup>rd</sup> respondent and no report was received from the 3<sup>rd</sup> respondent before issuance of direction to investigate on the complaint lodged by the 1<sup>st</sup> respondent. Further, in the case cited supra, it was discussed that, as per the provisions under section 175(3) of BNSS, three prominent changes came into effect as follows:

*“31. A comparison of Section 175(3) of the BNSS with section 156(3) of the Cr.P.C indicates three prominent changes that have been introduced by the enactment of BNSS as follows:*

*a.First, the requirement of making an application to the Superintendent of police upon refusal by the officer in charge of a police station to lodge the FIR has been made mandatory, and the applicant making an*



WEB COPY



*application under section 175(3) is required to furnish a copy of the application made to the Superintendent of police under section 173(4) supported by an affidavit, while making the application to the Magistrate under section 175(3).*

*b. Secondly, the Magistrate has been empowered to conduct such enquiry as he deems necessary before making an order directing registration of FIR.*

*c. Thirdly, the Magistrate is required to consider the submissions of the officer in charge of the police station as regards the refusal to register an FIR before issuing any directions under section 175(3).”*

Therefore, the learned Magistrate ought to have issued notice to the concerned police officer who received complaint and failed to take any action and on receipt of such the submissions or report, the learned Magistrate has to pass an order to investigate.

14. Further, it is relevant to extract provisions under **Section 175(4) of the BNSS** as follows:

*“175(4) Any Magistrate empowered under section 210, may upon receiving a complaint against a public servant arising in course of the discharge of his official duties, order investigation, subject to-*



WEB COPY



*(a) receiving a report containing facts and circumstances of the incident from the officer superior to him and*

*(b) after consideration of the assertions made by the public servant as to the situation that led to the incident so alleged.”*

15. Thus it is clear that if a complaint is received against a public servant arising in course of his/her official duties, the learned Magistrate ought to have received report from the officer superior to the said public servant before issuance of direction. As per the complaint lodged by the 1<sup>st</sup> respondent alleging that the jurisdictional Inspector of Police who issued a non-traceable certificate regarding the missing parent document in respect of the subject property and the person who registered the settlement deed namely the Sub Registrar are the proposed accused. On presentation of settlement deed by impersonating the 1<sup>st</sup> respondent, the 1<sup>st</sup> petitioner herein presented the settlement deed for registration. Therefore, the Inspector of Police issued non traceable certificate while discharging official duty and the Sub Registrar who registered the settlement deed while discharging the official duty.



WEB COPY



16. Therefore, it is mandatory for the learned Magistrate to obtain a report from the superior officers of the concerned officials. In the case on hand, admittedly the learned Magistrate failed to issue any notice to the Superior Officers of the 3<sup>rd</sup> respondent and also did not receive any reports with regard to the facts and circumstances of the allegations. Therefore, the learned Magistrate failed to follow the mandatory procedures as contemplated under section 175(3) and 175(4) of BNSS.

17. In view of the above findings, directions issued by the Magistrate under section 175(3) of BNSS are vitiated and is liable to be set aside. Accordingly, point 1 and 2 are answered.

18. As far as point No.3 is concerned, pursuant to the directions issued by the learned Magistrate, the 3<sup>rd</sup> respondent now registered the FIR in Crime No.4 of 2025 and now the investigation is pending. When the order passed under section 175(3) is not sustainable, consequent registration of FIR also cannot be sustained.

19. That apart, pursuant to the registration of the FIR, the petitioners cancelled the deed of settlement and re-conveyed the property



WEB COPY

in favour of the 1<sup>st</sup> respondent. They also cancelled the mortgage deed executed in favour of the banker. The entire family members of the petitioners, namely their son and daughter are impleaded as accused. The subject property was mortgaged, and a loan was obtained for their son's and daughter's educational purpose. The witnesses to the settlement deed are also named as accused. The Inspector of Police, who issued the non-traceable certificate concerning the parent title deed of the subject property and the Sub-Registrar who registered the settlement deed are arrayed as accused. The subsequent registration of the FIR cannot be sustained and is liable to be set aside.

20. Once the direction issued by the learned Magistrate to investigate the case is set aside, the consequential registration of FIR will also become non est in the eye of law. The registration of FIR would have no lawful existence if the very direction to investigate itself is bad and illegal.

21. In view of the above, the order passed under section 175(3) in Crl.M.P.No.275 of 2025 dated 31.01.2025, on the file of the learned Judicial Magistrate-II, Chengalpattu, cannot be sustained and is



accordingly set aside.

WEB COPY

22. In view of the above order, the 1<sup>st</sup> respondent is at liberty to take recourse for the remedies under section 175 of BNSS in accordance with law.

23. The Criminal Revision case is allowed on the above terms. Consequently, connected miscellaneous petition is closed.

**21.08.2025**

mpa

To

1.The Judicial Magistrate-II, Chengalpattu.

2.The Superintendent of Police,  
Chengalpattu District,  
Chengalpattu.

3.The Inspector of Police,  
District Crime Branch (Land Grabbing),  
O/o.Superintendent of Police,  
Chengalpattu District,  
Chengalpattu.

4.The Public Prosecutor,  
High Court, Madras.



WEB COPY



Crl.RC.No.362 of 2025

**G.K.ILANTHIRAIYAN, J.**  
mpa

**Crl.RC.No.362 of 2025**  
**and**  
**Crl.M.P.No.3590 of 2025**

21.08.2025