



Crl.R.C.No.1341 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2025

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1341 of 2023

K.Rajamani

... Petitioner

Vs.

1. The Superintendent of Plice,
Tiruppur.

2. The Inspector of Police,
Dharapuram Police Station,
Thiruppur.

3. Panneer Selvam

... Respondents

PRAYER: Criminal Revision Petition filed under Section 397 read with 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate at Dharapuram in Crl.M.P.No.930 of 2023 dated 14.06.2023.

For Petitioner : M/s.R.Pushpa Latha

For R1 and R2 : Mr.S.Sugendran
Additional Public Prosecutor

For R3 : Mr.M.Guruprasad



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ORDER

This Criminal Revision Petition has been filed to set aside the order dated 14.06.2023 passed in Crl.M.P.No.930 of 2023 on the file of the learned Judicial Magistrate at Dharapuram.

2. Heard the learned counsel appearing for the petitioner, learned counsel for the third respondent and the learned Additional Public Prosecutor appearing for the respondent-Police and perused the materials available on record.

3. The petitioner executed a settlement deed in favour of his son. Later, the petitioner's son mortgaged the said property to one Mr.Periyasamy for a sum of Rs.5,00,000/- at the rate of interest at 3% p.a. Since the petitioner's son has not paid the interest as well as the principal amount, the said Mr.Periyasamy filed a civil suit in O.S.No.280 of 2013 on the file of the Subordinate Court, Dharapuram and obtained an ex-parte decree. Pursuant to that, he filed an Execution Petition in E.P.No.42 of 2017.



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4. Subsequently, the petitioner entered into a compromise with the said Mr.Periasamy to settle the matter by paying Rs.6,50,000/- (Principal amount of Rs.5,00,000/- + Interest Rs.1,50,000/-). The first instalment amount of Rs.3,00,000/- was paid on 14.4.2017 and the said Mr.Periyasamy also acknowledged the same. Further, on 18.6.2017, the said Mr.Periyasamy received sum of Rs.2,00,000/- and also acknowledged the receipt of the said sum. Later the said Mr.Periasamy refused to receive the balance amount of Rs.1,50,000/-. The said Mr.Periyasamy died on 05.02.2018.

5. Again, the third respondent herein, who is the counsel for the said Mr.Periyasamy before the Court below, has taken steps to settle the issue between the parties (legal heirs of the said Mr.Periyasamy and the petitioner) through compromise. Accordingly, the petitioner entered into a compromise with the legal heirs of the said MR.Periyasamy and the settlement amount is fixed at Rs.18 lakhs. As per the said settlement, the petitioner herein paid sum of Rs.8,00,000/- by cash towards first instalment and paid another sum of Rs.7,00,000/- to the third respondent



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herein on 04.4.2022 and the remaining amount of Rs.3,00,000/- has to be paid after withdrawal of the execution petition.

6. After receipt of the said sum of Rs.15,00,000/-, the third respondent along with legal heirs of the said Mr.Periyasamy cheated the petitioner by prosecuting the said execution petition. Hence, the petitioner filed a complaint against the third respondent before the Bar Council of Tamil Nadu and Puducherry. Further, the petitioner filed a complaint against the third respondent under Section 156(3) Cr.P.C., in C.M.P.No.930 of 2023 on the file of the Judicial Magistrate, Dharapuram. Though the third respondent himself admitted that he received the said sum of Rs.15 lakhs, the learned Magistrate, without considering the facts, dismissed the petitioner's complaint vide impugned order dated 14.6.2023. Aggrieved by the same, the petitioner has filed this Criminal Revision Petition.

7. The defence taken by the third respondent is that the said amount was repaid to the petitioner.



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8. Once the third respondent admitted the receipt of the said sum of Rs.15 Lakhs, it is the bounden duty on the part of the third respondent to prove that he has repaid the said amount to the petitioner, for which, the third respondent has not produced any acknowledgement/ document.

9. The learned counsel for the third respondent submitted that no material is available to show that the third respondent repaid the said amount back to the petitioner. Since it is a civil transaction, the learned Magistrate rightly dismissed the petitioner's complaint.

10. The petitioner made the main allegation is that there was a settlement entered into in the civil dispute between the parties and the the amount is fixed at Rs.18 lakhs towards settlement. Out of the said sum of Rs.18 lakhs, an amount of Rs.15 lakhs was received by the third respondent, who was the counsel of the said Mr.Periyasamy. But, the third respondent has stated that the amount was repaid to the petitioner.



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11. Once the third respondent admitted that he received the money from the petitioner, but later he repaid the same back to the petitioner, it is for the third respondent to prove the same.

12. On a reading of the complaint, it is seen that there is *prima facie* allegation as against the third respondent. The learned Magistrate failed to consider the allegation made in the complaint filed by the petitioner, but simply dismissed the petition filed under Section 156(3) of the Cr.P.C.

13. Under the above facts and circumstances, this Court is inclined to remand the matter to the learned Magistrate.

14. Accordingly, the learned Judicial Magistrate, Dharapuram is directed to take the petitioner's complaint on file, send summons to the third respondent, proceed the complaint further in accordance with law and decide the matter on merits after giving opportunity to all the concerned within a period of six months from the date of receipt of a copy of this order.



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15. With the abovesaid direction, this Criminal Revision Petition is disposed of.

13.03.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

1. The Judicial Magistrate at Dharapuram.
2. The Superintendent of Police,
Tiruppur.
3. The Inspector of Police,
Dharapuram Police Station,
Thiruppur.
4. The Public Prosecutor
High Court, Chennai.



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P.VELMURUGAN, J.

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