



Crl.R.C.No.21 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2025

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.21 of 2025

and

Crl.M.P.Nos.138 & 139 of 2025

... Petitioner

Nagendran

Vs

The State represented by its
Deputy Superintendent of Police,
District Crime Branch,
Krishnagiri,
Krishnagiri District

... Respondent

PRAYER:

Criminal Revision Case filed under Section 438 read with 442 of BNSS, to call for the records relating to the order passed by the learned Judicial Magistrate No.II, Krishnagiri in Crl.M.P.No.2630 of 2018 in C.C.No.162 of 2016 dated 29.11.2024 and set aside the same and allow the revision.

For Petitioner : Mr.R.Radha Pandian

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

This Criminal Revision Case has been filed to call for the records relating to the order dated 29.11.2024 passed in Crl.M.P.No.2630 of 2018 in C.C.No.162 of 2016 on the file of the learned Judicial Magistrate No.II, Krishnagiri and set aside the same.

2. The learned counsel for the petitioner submitted that the defacto complainant lodged a complaint after lapse of 10 years on 26.08.2007. The respondent-Police had also completed the investigation after 7 years and filed the charge before the trial court on 18.12.2025. The dispute between the parties is civil in nature. The respondent-police has given criminal colour to the civil dispute. There is no material available to frame the charges as against the petitioner and proceed the case further. Hence the petitioner has filed the petition in Crl.M.P.No.2630 of 2018 in C.C.No.162 of 2016 seeking to discharge him from the charges on the file of the Judicial Magistrate No.II, Krishnagiri, by invoking section 239 Cr.P.C. The learned Magistrate failed to consider the materials and dismissed the same vide impugned order dated 29.11.2024. Aggrieved over the same, the petitioner filed this Criminal Revision Petition.



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3. The learned Additional Public Prosecutor appearing for the respondent-Police submitted that based on the complaint made by the defacto complainant, the respondent-Police filed the charge sheet. The witnesses P.Ws.1 to 3 have clearly stated about the offence made by the petitioner. The respondent-police found that *prima facie* materials are available to frame charges against the petitioner and hence they laid the charge sheet in C.C.No.162 of 2016 on the file of the Judicial Magistrate No.II, Krishnagiri. There is no merit in the criminal revision petition and the same is liable to be dismissed.

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

5. The case of the prosecution is that the the petitioner herein/A1 and another accused were running a real estate company and that they were allotting lands by way of prize scheme and had promised that on receipt of Rs.1000/- as advance and Rs.300/- per month for the period of



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30 months, they would execute a sale deed in favour of the defacto complainant. The defacto complainant invested money in the said scheme. The petitioner herein and other accused collected the money from the public by making false promise that if they paid the money in the prize scheme and based on the prize lot, site will be allotted to them. Even after subsequent to the prize lot, site was not allotted to the defacto complainant and other subscribers. Since the petitioner cheated the defacto complainant and other subscribers, he made a complaint before the respondent police.

6. Admittedly, the petitioner has been arrayed as first accused in C.C.No.162 of 2016 on the file of the Judicial Magistrate No.II, Krishnagiri. The case was registered against the petitioner and another for the offence under Sections 465, 467, 471 and 420 IPC. The cases of this nature, mere laches /delay in filing the complaint and completion of investigation are not the grounds for discharging the petitioner from the said charges.

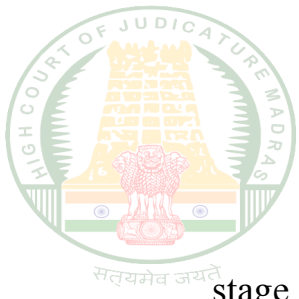


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7. It is a well settled proposition of law, while deciding the petition filed under Section 239 Cr.P.C., the Court has to see the case of the prosecution and materials produced on the side of the prosecution as to whether prima facie materials are available for proceeding the case further as against the accused and not the defence taken by the accused. Further it is a well settled proposition of law at the time of framing charges, the Court need not conducting a roving enquiry regarding the veracity and validity of the materials and that can be decided only after trial. Therefore, at the time of framing charges, if the Court satisfies with the prima facie materials available, it can frame charges and proceed the case further.

8. On a reading of materials, it is seen that the dispute between the parties are not civil in nature. The allegation is that the defacto complainant was cheated by the petitioner and other accused. The petitioner is the prime accused. The grounds taken by the petitioner are nothing but defence, which can be decided only after trial not at this



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stage. On a perusal of the records, statement of witnesses, it is seen that prima facie materials are available to proceed the case further as against the petitioner. The learned Magistrate has considered the entire materials and dismissed the petition filed by the petitioner in Crl.M.P.No.2630 of 2018 in C.C.No.162 of 2016. This Court does not find any reason to interfere with the order passed by the learned Magistrate. This court does not find any perversity in the impugned order passed by the learned Magistrate and there is no merit in the revision petition.

9. In view of the same, this Revision Petition is dismissed. Consequently, connected miscellaneous petitions are closed. However, the petitioner is at liberty to take all his defence before the trial court during trial.

13.02.2025

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No



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To

1. The Judicial Magistrate No.II, Krishnagiri.
2. Deputy Superintendent of Police,
District Crime Branch,
Krishnagiri,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Chennai.



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P.VELMURUGAN, J

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