



Crl.R.C.(MD)No.329 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.03.2025

Delivered on : 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.329 of 2025

T.M.Azith Singh

: Petitioner

Vs.

1.Kamardeen

2.Sajeevan

3.Roozman

4.Sulpi @ Mohamed Sulbihar Ali

5.Godwin

6.The Sub-Inspector of Police,
Thukalay Police Station,
kanyakumari District.

: Respondents

PRAYER : Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C., to call for the records and set aside the order, dated 03.07.2023 in Crl.M.P.No.2345 of 2023 on the file of the Judicial Magistrate No.I, Padmanabhapuram.



Crl.R.C.(MD)No.329 of 2025

WEB COPY

For Petitioner : Ms.M.Rajeswari
For Respondent : Mrs.M.Aasha,
Government Advocate (Criminal Side)
for R6.
: Mr.N.Pragalathan, for R2.

ORDER

This Criminal Revision Petition is directed against the order passed in Crl.M.P.No.2345 of 2023, dated 03.07.2023 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, dismissing the petition filed under Section 156(3) of Cr.P.C.

2. The case of the petitioner is that he has been working as a ship mechanic in abroad; that the respondents 1 and 4 have taken the two wheeler owned by Krishnakumar on 06.02.2022 and when the same was questioned, they have informed that the vehicle was available near Azhahiya Mandabam lighthouse auditorium; that the petitioner on 08.02.2022 at about 04.30 pm, went to the Azhahiya Mandabam in his two wheeler and while proceeding from Moondru Veetu Junction towards Melakonam road, the respondents have way-laid the petitioner



Crl.R.C.(MD)/No.329 of 2025

WEB COPY

and asked him as to whether he brought the amount; that they have snatched five sovereigns gold chain from the petitioner at knife point and caused criminal intimidation; that they then fled away on the two wheeler; that the petitioner has immediately lodged a complaint before the Thukalay Police Station on 08.02.2022 and also produced the CCTV footage to show the occurrence; that since there was no action, he sent postal complaint through his wife while he was in abroad and that since there was no action, he was constrained to file the present petition under Section 156(3) of Cr.P.C., for registration of the case and for investigation.

3. The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C, on file in Cr.M.P.No.2345 of 2023, upon perusing the petition, petitioner's affidavit and on hearing the petitioner's side, has passed the impugned order dated 03.04.2023 by holding that the dispute is of money transaction and there was no scope for proceeding further, dismissed the petition.



Crl.R.C.(MD)No.329 of 2025

WEB COPY

4. Before entering into further discussion, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***M/S Indian Oil Corporation vs M/S NEPC India Ltd., and Others, in Crl.A.No.834 of 2002, dated 20.07.2002***, wherein, the Hon'ble Apex Court has deprecated the practice of attempting to settle the civil disputes by applying pressure through criminal prosecution and the relevant passage is extracted hereunder:

“10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure through criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :



WEB COPY



Crl.R.C.(MD)No.329 of 2025

"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."

While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power



WEB COPY

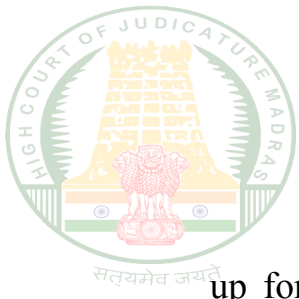


Crl.R.C.(MD)No.329 of 2025

under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may.”

5. In ***Mitesh Kumar J Sha vs The State Of Karnataka (Crl.A.No. 1285 of 2021, dated 26.10.2021)***, the Hon'ble Supreme Court has reiterated that cloaking a civil dispute with a criminal nature in order to get quicker relief is an abuse of process of law which must be discouraged. Bearing the above legal position on mind, let us consider the case on hand.

6.The main contention of the petitioner is that the accused have way-laid the petitioner and snatched five sovereigns of gold chain from him and caused criminal intimidation. The learned Magistrate has specifically observed that though they have produced the CCTV footage, there is nothing to show the alleged occurrence. The learned Magistrate, upon the receipt of the petition filed under Section 156 (3) of Cr.P.C., called for a report from the jurisdictional police and in pursuance of the same, the respondent police has submitted a report stating that despite repeated notices directly and through phone, the petitioner has not turned



Crl.R.C.(MD)/No.329 of 2025

WEB COPY

up for enquiry; that the first respondent has also vacated his house at Kodungulam Marthandam one year back and his whereabouts are not known; that the second respondent was detained under Goondas Act and he is in Palayamakottai Prison; that the third respondent was not residing in the address mentioned; that the fourth respondent was also in judicial custody and the fifth respondent stated that he has no connection whatever with the alleged occurrence. The learned Magistrate, considering the petition, petitioner's affidavit and other materials, has observed that the petitioner has not shown any *prima facie* materials to proceed further and that he has given a complaint exaggerating the money dispute existed between the parties and by raising suspicions over the lodging of the complaint itself, dismissed the petition.

7.The learned Government Advocate (Criminal Side) appearing for the State would submit at the enquiry, they came to know that the petitioner has attended the third respondent's sister's marriage and there arose some disputes between the parties with regard to the money transaction and that since the money dispute was not settled, the petitioner has given the complaint.



Crl.R.C.(MD)/No.329 of 2025

WEB COPY

8.Considering the above, this Court has no hesitation to hold that the petitioner has been attempting to give the money dispute a criminal color.

9.The learned counsel appearing for the petitioner would submit that since their petition under Section 156(3) Cr.P.C., discloses the commission of cognizable offence, the Judicial Magistrate is duty bound to forward the complaint to the concerned police for registering an FIR and that he has no power or jurisdiction to dismiss the same by himself. The above contention of the learned counsel appearing for the petitioner is absolutely devoid of merits as the complainant does not have an unqualified right to demand a police investigation in all circumstances and moreover, it is not mandatory on the part of the Judicial Magistrate to refer the complaint to the concerned police for registration of the case. But it is pertinent to note that it is always open to the petitioner to file a private complaint and proceed to prosecute the accused even if the Judicial Magistrate refuses to exercise the power under Section 156(3) Cr.P.C.



Crl.R.C.(MD)No.329 of 2025

WEB COPY

10. It is settled law that the learned Judicial Magistrate, while exercising power under Section 156(3) Cr.P.C., cannot act as a post office and is duty bound to consider the nature of the accusation or the offences alleged and to decide about the course of action to be taken and it cannot be said that the order of Judicial Magistrate refusing to direct the police to register an F.I.R., completely shut out all the opportunities for the complainant. If the petitioner is having necessary particulars and materials to show a *prima facie* case against the proposed accused, he can very well file a private complaint under Section 200 Cr.P.C., and there is absolutely no bar or prohibition for filing a private complaint on the ground that the petition filed under Section 156(3) Cr.P.C., was dismissed by the Magistrate.

11. Considering the above, the impugned order dismissing the petition filed under Section 156(3) Cr.P.C. by the learned Magistrate cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.



Crl.R.C.(MD)No.329 of 2025

WEB COPY

12. In the result, this Criminal Revision Petition is dismissed.

28.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

1.The Judicial Magistrate No.I,
Padmanabhapuram.

2.The Sub-Inspector of Police,
Thukalay Police Station,
kanyakumari District.



WEB COPY



CrI.R.C.(MD)No.329 of 2025

K.MURALI SHANKAR,J.

das

Pre-delivery order made in
CrI.R.C.(MD)No.329 of 2025

Dated: 28.03.2025