



Crl.R.C.(MD)No.443 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 04.04.2025

Delivered on : 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.443 of 2025

Appas

... Petitioner

Vs.

1.Ali Fatima

2.Habipur Rahman

3.The State of Tamil Nadu Rep.by
The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS., to call for the records relating to the order passed by the learned Judicial Magistrate, Tenkasi in Crl.M.P.No.1514 of 2024, dated 27.01.2025 and set aside the same.

For Petitioner : Mr.G.Thalai Mutharasu

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)
for R3.



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.1514 of 2024, dated 27.01.2025 on the file of the Court of the Judicial Magistrate, Tenkasi, dismissing the petition filed under Section 175 (3) of BNSS.

2. The case of the petitioner/defacto complainant is that the second respondent is the Chairman of the Kadayanallur Municipality and the first respondent is his wife; that the petitioner approached the respondents 1 and 2 for borrowing Rs.50,00,000/- for business purpose; that the respondents asked the petitioner to execute a mortgage deed in respect of the house standing in the name of the petitioner's wife; that the respondents have obtained the petitioner's wife signatures in the sale deed on 18.10.2022, misrepresenting it as mortgage deed by coercion; that the respondents contacted the petitioner on the next day ie., on 19.10.2022 and informed that they had taken the sale deed from the petitioner's wife and when the same was questioned, the respondents have threatened that the petitioner has to pay interest at the rate of 5 paise



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and to repay the principal amount within six months; that they have also entered into an agreement on 20.10.2022, wherein it was stated that the petitioner has to redeem the house property within six months by paying the principal and interest; that the petitioner has paid the amount at Rs. 2,50,000/- per month for 23 installments totally Rs.57,50,000/-, that the respondents had threatened the petitioner and his wife directing them to act as per their agreement or else they would be killed; that when the petitioner was demanding the respondents to cancel the sale deed as the entire amount was repaid, they had threatened the petitioner and directed him to hand over the house key and vacate the property; that the petitioner was constrained to send a complaint through registered post to the Kadayanallur Police Station on 30.10.2024 and having received the same, the Inspector of Police, Kadayanallur Police Station has not taken any action; that the petitioner has then sent a complaint through registered post to the District Superintendent of Police, Tenkasi on 16.11.2024 and having received the same, they have also not taken any action and that therefore, the petitioner was constrained to file the above petition under Section 175 (3) of BNSS.



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3.The learned Judicial Magistrate, taking the petition filed under Section 175(3) of BNSS., on file in Cr.M.P.No.1514 of 2024 and upon perusing the petition, affidavit and on hearing the petitioner's side, has passed the impugned order, dated 27.01.2025 by holding that the dispute is of civil in nature, dismissed the petition. Challenging the dismissal order, the present Criminal Revision came to be filed.

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



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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 though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :

"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."



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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 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.



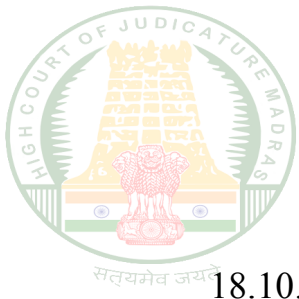
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6. It is the specific case of the petitioner that the respondents have advanced a loan amount of Rs.50 lakhs and the petitioner and his wife have consented to execute a mortgage deed in respect of the property owned by the petitioner's wife as sought for by the respondents, but the respondents had taken signatures of the petitioner's wife in the sale deed misrepresenting the same as mortgage deed; that they have also coerced the petitioner's wife to subscribe the signatures in the said document and that they have informed the petitioner about the taking of sale deed.

7. It is the further case of the petitioner that the first respondent and the petitioner's wife have entered into an agreement, dated 20.10.2022, wherein it has been stated that the petitioner's wife had taken loan of Rs.50 lakhs and for that she executed the sale deed in favour of the first respondent and that the petitioner's wife has to pay Rs.1 lakh per month and to return the principal amount within six months and to get the sale deed executed from the first respondent.

8.It is pertinent to note that the petitioner in his complaint has specifically stated that the respondents had taken the document, dated



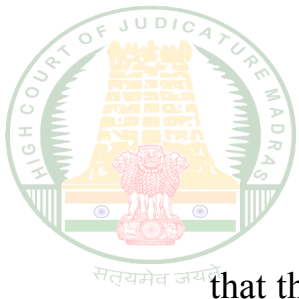
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18.10.2022 from the petitioner's wife in the capacity of power agent. It is evident from the copy of the sale deed produced that the petitioner's wife Mahmotha executed a sale deed as power agent of one Mohammed Ibrahim in favour of the first respondent Ali Fathima on 18.10.2022 in respect of the house property.

9. As rightly contended by the learned Government Advocate (Criminal Side), the property in dispute came to be owned by one Mohammed Ibrahim and the petitioner's wife was only a power agent of the said Mohammed Ibrahim and only in that capacity, she executed a sale deed in favour of the first respondent, but the petitioner in his affidavit as well as in the petition has reiterated the stand that the property in dispute belonged to his wife and that the respondents had taken the sale deed fraudulently.

10. According to the petitioner, the first respondent subsequently sold the said property to one Abdul Rahman vide sale deed, dated 28.01.2025. Considering the entire facts and circumstances of the case and the materials available on record, this Court has no hesitation to hold



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that the petitioner has been attempting to give the civil dispute a criminal color. As rightly observed by the learned Magistrate, the complaint does not disclose any cognizable offence and as such, the impugned order dismissing the petition filed under Section 175(3) of Cr.P.C., cannot be found fault with. Consequently, this Court concludes that the Criminal Revision Case is devoid of merits and the same is liable to be dismissed.

11. In the result, the Criminal Revision Case is dismissed.

20.06.2025

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

To

- 1.The Judicial Magistrate, Tenkasi.
- 2.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.R.C.(MD)No.443 of 2025

Dated : 20.06.2025