



Crl.R.C.(MD)No.178 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 13.02.2025

Delivered on : 07.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.178 of 2025

R.Ramamoorthy

: Petitioner

Vs.

1.The Inspector of Police,
Ilayankudi Police Station,
Sivagangai District.

2.The Superintendent of Police,
Sivagangai District.

: Respondents

PRAYER : Criminal Revision Petition filed under Sections 438 r/w 442 BNSS, to call for the records relating to the order passed in Cr.M.P. No.2225 of 2024, dated 12.12.2024 on the file of the District Munsif cum Judicial Magistrate Court, Ilayangudi and set aside the same by allowing the revision.

For Petitioner : Mr.A.R.Kannappan

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



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ORDER

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This Criminal Revision is directed against the order passed in Cr.M.P.No.2225 of 2024, dated 12.12.2024 on the file of the District Munsif cum Judicial Magistrate Court, Ilayangudi, dismissing the petition filed under Section 175(3) of BNSS.

2.On the basis of the complaint lodged by one Selvamani/driver of the pickup four wheeler vehicle, FIR came to be registered in Crime No.292 of 2024 on 21.09.2024 against the petitioner's son Naveen for the offences under Sections 281 and 125(a) of BNS.

3.The case of the prosecution is that on 20.09.2024 at about 04.15 pm, when the said Selvamani was driving the pickup vehicle bearing Reg.No.TN-63-BQ-9079, from Ilayangudi to Nagamukunthankudi, the petitioner's son Naveen rode his two wheeler by watching his mobile phone; that the said Selvamani on seeing the petitioner's son coming on the extreme right side of the road, turned his vehicle towards his left side and at that time, the petitioner's son had dashed against the pick up vehicle on the right side.



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4. The case of the petitioner/complainant is that the petitioner's son regained his conscious after four days from the date of accident; that after the accident, he was admitted in Preethi Hospital at Madurai, which is far away from the accident spot; that the manner of accident as projected by the defacto complainant Selvamani is completely false; that when the petitioner's son was riding his two wheeler on the extreme left side of the road, the pickup vehicle driven by Selvamani deviated from its track and came to its extreme right side of the road; that when the petitioner's son was coming in the opposite direction, the said Selvamani immediately turned towards left side to avoid hitting the petitioner's son and at that time, rear side of the pickup vehicle dashed against the petitioner's son's two wheeler, as a result of which, the petitioner's son sustained grievous injuries and admitted in the hospital; that the pickup vehicle driver Selvamani utilizing the said opportunity gave a complaint to suit his convenience by putting blame on the petitioner's son; that after the petitioner's son gaining consciousness, a complaint was sent to the respondents, but no FIR was registered against the said Selvamani and that therefore, the petitioner was constrained to lodge a complaint under Section 175(3) of BNSS.



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5.The learned Judicial Magistrate, taking the petition filed under Section 175(3) of BNSS, on its file in Cr.M.P.No.2225 of 2024 and upon perusing the petition and affidavit and other materials and on hearing the petitioner's side, has passed the impugned order, dated 12.12.2024, by holding that there existed no *prima facie* case to proceed further, dismissed the petition.

6. The learned counsel for the petitioner would further submit that the petitioner's son regained his conscious only after four days from the date of accident and as such, the petitioner could able to collect actual aspects from his son only after gaining consciousness and that is why the reason for lodging the complaint after four days; that the pickup vehicle driver had utilized the chance and lodged a complaint against the petitioner's son in his absence; that the said Selvamani has properly planned and fabricated a story for lodging a complaint in order to escape from the criminal liability; that the petition given by the complainant discloses the commission of cognizable offence under Section 281 and 125(A) BNSS, but the respondent Police failed to register an FIR or



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investigate the case as mandated under Section 175 of BNSS; that the petitioner's son alone got injured in the accident and his vehicle alone was damaged and that the learned Magistrate, without considering the manner of accident as projected by the petitioner's side, without taking note of the actual facts in proper perspective, has passed the impugned order mechanically, dismissing the petition filed under Section 175(3) of BNSS.

7.It is pertinent to note that the learned Magistrate, after taking the petition filed under Section 175(3) of BNSS., on file, called for a report from the jurisdictional Police and the respondent Police in pursuance of the directions of the Court conducted investigation and submitted a report stating that the petitioner's son Naveen had driven the vehicle rashly and negligently and dashed against the rear side of the pickup four wheeler and that since the petitioner's son alone was responsible for the accident, FIR came to be registered against him. The respondent police has further stated that the two occurrence witnesses have given statement under Section 180(3) of BNSS, reiterating the version of the accident, as projected by the defacto complainant Selvamani.

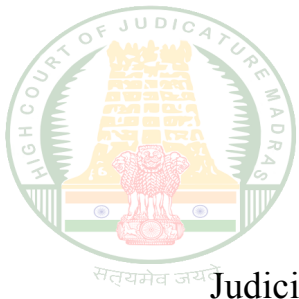


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8.The learned Magistrate, considering the petitioner's affidavit and other materials and also taking note of the report filed by the concerned Police, has come to a decision that the manner of accident projected by the petitioner's side is hard to believe; that the petitioner has lodged the complaint with sole intention to get motor accident compensation and that therefore, there existed no *prima facie* case to proceed further.

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 merit 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



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Judicial Magistrate refuses to exercise the power under Section 156(3) Cr.P.C. It is settled law that the 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.

10. Considering the above, the impugned order dismissing the petition filed under Section 175(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.



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

07.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The District Munsif cum Judicial Magistrate,
Ilayangudi.
- 2.The Inspector of Police,
Ilayankudi Police Station,
Sivagangai District.
- 3.The Superintendent of Police,
Sivagangai District.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.R.C.(MD)No.178 of 2025

Dated: 07.03.2025