

CrI.R.C.(MD)No.336 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2025

Delivered on : 19.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.336 of 2025

Gokila

... Petitioner

Vs.

1.State of Tamil Nadu rep.by
the Superintendent of Police,
Pudukkottai District, Pudukkottai.

2.The Sub-Inspector of Police,
Nagudi Police Station,
Pudukkottai District.

3.Anbuganapathi

4.Marimuthu

5.Subbaiah

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the entire records relating to the impugned order, dated 16.08.2024 in CrI.M.P.No.1447 of 2024 on the file of the learned Judicial Magistrate, Aranthangi and set aside the same.



CrI.R.C.(MD)No.336 of 2025

WEB COPY

For Petitioner : Mr.R.Prasanna

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (CrI. Side)
for R1 & R2.

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.1447 of 2024, dated 16.08.2024 on the file of the Judicial Magistrate Court, Aranthangi, dismissing the petition filed under Section 156(3) of Cr.P.C.

2.The case of the petitioner/complainant is that her husband Kumar has right and exclusive possession over the property in S.No. 21/11 to an extent of 0.14.60 Ares out of 0.58.5 Ares and S.No.29/9B to an extent of 0.08.3 Ares at Pandipathiram Village, Avudayarkoil Taluk, Pudukkottai District; that since the petitioner's husband is working in Chennai, she has been taking care of the agricultural operations in the said properties; that the petitioner cultivated paddy in the year 2023 and when it was ready for harvest in January 2024, the respondents 3 to 5 gave an open threat on 20.01.2024 that they would do harvest in the fields; that the petitioner gave complaint before the second respondent on 20.01.2024, for which,



Crl.R.C.(MD)No.336 of 2025

WEB COPY

CSR.No.54 of 2024, dated 24.01.2024 came to be issued; that the respondents 3 to 5 had illegally trespassed into the revision petitioner's fields on 26.01.2024 around 11.00 hours and started to harvest the paddy; that the petitioner coming to know about the same went to the spot and questioned them; that the respondents 3 to 5 had abused in filthy language and threatened to kill her by showing weapons like Aruval, Rod and Spade; that the respondents have stolen the harvest and transported the same through their tractor; that the petitioner gave another complaint before the second respondent on 26.01.2024, but they refused to receive the same; that the petitioner has then sent the complaint through registered post on 05.02.2025 and since there was no action, she was constrained to file a 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 Crl.M.P.No.1447 of 2024 and upon perusing the petition, petitioner's affidavit and on hearing the petitioner's side, has passed the impugned order, dated 16.08.2024, by holding that the dispute is of civil in nature, dismissed the petition.

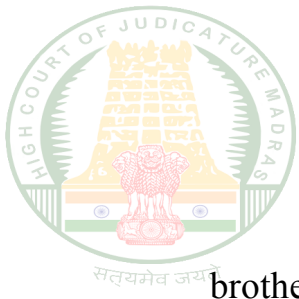


Crl.R.C.(MD)No.336 of 2025

WEB COPY

4.The learned counsel for the petitioner would submit that the petitioner has specifically averred in her complaint that the respondents 3 to 5 had illegally trespassed into the petitioner's husband land and harvested the paddy, which came to be cultivated by the petitioner and that when the same was questioned, they have abused the petitioner in filthy language and caused criminal intimidation. The petitioner in her petition has stated that since there was no action on the part of the second respondent, subsequent to the registration of CSR.No.54 of 2024, she sent a petition under RTI Act to the District Superintendent of Police, Aranthangi, seeking information about the action taken; that the petitioner received a response stating that she was called for enquiry on 30.01.2024, but she did not appear and that enquiry is pending; that the petitioner did not receive any notice from the second respondent police and that since there was no progress, she sent a representation to the first respondent.

5. As rightly pointed out by the learned Government Advocate (Criminal Side), in the complaint sent to the second respondent on 20.01.2024, the petitioner has specifically stated that the third respondent is none other than the brother of her husband, the fourth respondent is the



Crl.R.C.(MD)No.336 of 2025

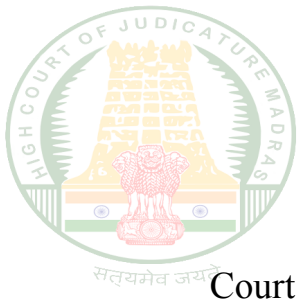
WEB COPY

brother-in-law of the third respondent and that they have threatened that they would harvest the cultivation and stating so, she has sought for police protection.

6.It is pertinent to note that the petitioner in the petition filed under Section 156(3) of Cr.P.C., has nowhere whispered about the relationship of the respondents with the petitioner's husband, but referred as if they are third party strangers.

7.As rightly contended by the learned Government Advocate (Criminal Side), since both the parties are claiming to be the owners, in possession over the agricultural fields and are claiming harvested crops to be their, the police cannot go into those aspects and that after the receipt of first complaint from the petitioner, they have issued CSR specifically mentioning as civil dispute.

8. 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



CrI.R.C.(MD)No.336 of 2025

WEB COPY

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 :

"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



WEB COPY



CrI.R.C.(MD)No.336 of 2025

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 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."

9. In *Mitesh Kumar J Sha vs The State Of Karnataka (CrI.A.No. 1285 of 2021, dated 26.10.2021)*, the Hon'ble Supreme Court has reiterated



Crl.R.C.(MD)No.336 of 2025

WEB COPY

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.

10.Considering the petitioner's affidavit and complaint, the learned Magistrate has rightly observed that the dispute is of civil in nature. Hence, this Court has no hesitation to hold that the petitioner has been attempting to give civil dispute a criminal colour.

11.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



Crl.R.C.(MD)No.336 of 2025

WEB COPY

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. 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.

12. 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.336 of 2025

WEB COPY

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

19.03.2025

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

To

- 1.The Judicial Magistrate, Aranthangi.
- 2.The Superintendent of Police,
Pudukkottai District, Pudukkottai.
- 3.The Sub-Inspector of Police,
Nagudi Police Station,
Pudukkottai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD)No.336 of 2025

K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.R.C.(MD)No.336 of 2025

Dated: 19.03.2025