



CrI.R.C.(MD)No.382 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 24.03.2025

Delivered on : 09.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.382 of 2025

Mahesh

... Petitioner

Vs.

1.State of Tamil Nadu
The Inspector of Police,
Sivakasi Town Police Station,
Sivakasi, Virudhunagar District.

2.Ganeshram

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS., to call for the records and set aside the order, dated 27.12.2023 passed in Cr.M.P.No.6909 of 2023 on the file of the learned Judicial Magistrate No.I, Sivakasi and consequently, direct the first respondent to register a criminal case under Section 294(b), 406, 420, 506(i) of IPC against the second respondent.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mrs.M.Aasha,
Government Advocate (Criminal Side)
for R1.



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ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.6909 of 2023, dated 27.12.2023 on the file of the learned Judicial Magistrate No.I, Sivakasi, dismissing the petition filed under Section 156(3) of Cr.P.C.

2.The case of the prosecution is that the second respondent, who is the Proprietor of Mohan constructions, had taken the construction work of Kumarguru Hospital; that he engaged the petitioner for carrying out work of basement belt, installing pillars, fitting and concrete work in the said hospital building, agreeing to pay at Rs.46/- per sq.ft for using 16 mm reinforcement rods; that the second respondent immediately changed his plan and directed the petitioner to use 25mm reinforcement rods; that the petitioner immediately informed him that he has to pay at Rs.55/- per sq.ft for using 25 mm rods, for which the second respondent had agreed to pay the same; that the petitioner believing the words of the second respondent proceeded the work and completed the work of making pillars and sunshade and demanded the amount; that the second respondent by informing that he would pay only at



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the old agreed rate, abused the petitioner in filthy language and also caused criminal intimidation; that the second respondent has to pay Rs.7,44,040/-, but paid only Rs.5,35,000/-; that the petitioner immediately lodged a complaint with Sivakasi Town Police Station on 11.10.2023 and receipt alone came to be issued on 14.10.2023; that since there was no action, the petitioner sent a complaint to the District Superintendent of Police and that since there was no action, the petitioner was constrained to file the above petition under Section 156(3) of Cr.P.C., for registration of case and for investigation.

3.The learned Magistrate taking the petition filed under Section 156(3) of Cr.P.C., on file in Cr.M.P.No.6909 of 2023 and upon perusing the petition, petitioner's affidavit and on hearing the petitioner's side, has passed the impugned order, dated 27.12.2023, dismissing the petition filed under Section 156(3) of Cr.P.C.

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



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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 accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise its



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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."

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. The main contention of the petitioner is that though the second respondent has agreed to pay Rs.55/- per sq.ft for using 25 mm reinforcement rods, the second respondent has paid only at Rs.5,35,000/- calculated at the rate of Rs.46/- per sq.ft, which was agreed for using 16 mm reinforcement rods earlier and that therefore, the second respondent has cheated the petitioner.

7.The learned Government Advocate (Criminal Side) appearing for the State would submit that on the basis of the complaint given by the petitioner, CSR came to be registered in C.S.R.No.401 of 2023 and at the enquiry, the second respondent has informed that though the petitioner has agreed to complete the work within time stipulated, he has delayed the matter for months together and he has not turned up to the work alleging ill-health and that the petitioner has informed that he would take necessary legal proceedings against the second respondent and on that basis, the complaint was ordered to be closed.



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8.As rightly contended by the learned Government Advocate (Criminal Side), in the CSR receipt, they have only referred that there existed money disputes between the parties. It is pertinent to note that the petitioner has admitted the receipt of Rs.5,35,000/-. But according to him, the second respondent has agreed to pay Rs.55/- per sq.ft and has to pay Rs.7,44,040/- and despite repeated demands, the second respondent has not paid balance amount.

9.As rightly observed by the learned Magistrate, the petitioner has produced the Kumaraguru Hospital centring bill and the receipt of advance amount. As rightly contended by the learned Government Advocate (Criminal Side), there existed disputes with regard to the execution of contract work between the parties.

10. Considering the petitioner's affidavit and other materials available, this Court has no hesitation to hold that there existed dispute with regard to the contract between the parties and that the petitioner has been attempting to give the civil dispute a criminal color and as such, the impugned order dismissing the petition filed under Section 156(3) Cr.P.C., by the learned



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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.

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

09.04.2025

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

To

1.The Judicial Magistrate No.I, Sivakasi.

2.The Inspector of Police,
Sivakasi Town Police Station,
Sivakasi, Virudhunagar 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.382 of 2025

Dated: 09.04.2025