



Crl.R.C.(MD)No.445 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2025

Delivered on : 30.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.445 of 2025

M.K.Krishnan

... Petitioner

Vs.

1.The Inspector of Police,
Cumbum South Police Station,
Uthamapalayam Taluk,
Theni District.

2.S.Masthan

3.J.B.Jailani

4.Jayakumar

5.Singh Chellapandi

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 of BNSS., to call for the records pertaining to the order, dated 13.02.2022 in Cr.M.P.No.724 of 2022 passed by the learned Judicial Magistrate, Uthamapalayam and set aside the same.



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For Petitioner : Mr.M.Dinesh Hari Sudarsan

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

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.724 of 2022, dated 13.02.2022 on the file of the learned Judicial Magistrate, Uthamapalayam, dismissing the petition filed under Section 156(3) of Cr.P.C.

2. The case of the petitioner/defacto complainant is that the respondents 2 and 3 had formed layout in their lands and started selling them; that the petitioner's wife agreed to purchase a plot for sale consideration of Rs.2,50,000/- and both the parties entered into an unregistered sale agreement, dated 22.09.2015; that the petitioner's wife has paid Rs.1,01,000/- as advance and subsequently paid Rs.3,00,000/- on 20.12.2015; that the respondents 2 and 3 have undertaken to execute a sale deed after getting necessary approvals from the Government authorities; that they have handed over the possession of the plot and the



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petitioner by fencing the said land has been in possession and enjoyment of the same'; that the respondents 2 and 3 without the knowledge of the petitioner and his wife sold the said plot to the fourth respondent on 27.01.2021; that the petitioner has sent a complaint to the District Superintendent of Police on 04.04.2022 and another complaint to the Land Grabbing Police and to the Tamil Nadu Chief Minister Special Cell; that the private respondents had then attempted to take forcible possession from the petitioner; that the petitioner was forced to file a suit in O.S.No.214 of 2022 on the file of the District Munsif Court, Uthamapalayam, restraining the respondents from interfering with the petitioner's peaceful possession and enjoyment of the suit property and not to evict him except by due process of law; that meanwhile on 01.04.2023 at about 06.00 am, the respondents 4 and 5 along with ten other persons had trespassed into the petitioner's property and destroyed the fencing and sheds; that when the same was questioned by the petitioner, they have abused him in filthy language and caused criminal intimidation; that since the petitioner was not well, he could not prefer a complaint immediately; that the petitioner sent a complaint to the Cumbum South Police Station on 07.07.2023, but they have refused to



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take any action; that the petitioner has again sent a complaint to the District Superintendent of Police on 21.08.2023 and since there was no action, the petitioner was constrained to file the above petition under Section 156(3) of Cr.P.C.

3.The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C. on file in Cr.M.P.No.724 of 2024 and upon perusing the petition, affidavit and on hearing the petitioner's side, has passed the impugned order dated 13.02.2024 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 *deprecat*ed the practice of attempting to settle the civil disputes by applying pressure through criminal prosecution and the relevant passage is extracted hereunder:



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“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 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



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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."

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



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discouraged. Bearing the above legal position on mind, let us consider the case on hand.

6. It is the specific case of the petitioner that his wife has entered into an unregistered sale agreement with the respondents 2 and 3 and paid Rs.4,00,000/-; that the respondents 2 and 3 have also handed over the possession of the plot and since then, his wife has been in possession and enjoyment of the same; that the respondents 2 and 3 subsequently sold the said plot to the fourth respondent on 27.01.2021; that the respondents 4 and 5 along with ten persons had trespassed into the property in dispute, destroyed the fencing and other sheds and that when the same was questioned, they had abused the petitioner and caused criminal intimidation.

7.The petitioner has not chosen to produce the agreement alleged to have been entered into between the parties. The petitioner has produced the copies of the reply given by the respondents 2 and 3. The second respondent in his reply has taken a stand that he had taken a loan from the third respondent by handing over the original title deeds; that he



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has never executed any sale deed or any other power deed authorizing the third respondent to deal with the property in dispute; that subsequently, came to know that the petitioner's wife has entered into an agreement with the third respondent and the second respondent has no connection whatever with the said agreement; that the second respondent has never entered into any agreement with the petitioner's wife nor received any amount and that he has no connection whatever with the said transaction.

8.The third respondent in his reply would admit the execution of unregistered agreement, but according to him, despite the request, the petitioner's wife has failed to take the sale and as such the agreement has become time barred and that therefore, the second respondent sold the property to the third party.

9.According to the petitioner, the alleged unregistered sale agreement was entered into on 22.09.2015 and lodged the first complaint before the District Superintendent of Police on 04.04.2022. As rightly contended by the learned Government Advocate (Criminal Side) , the



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petitioner has not chosen to file any suit for specific performance nor for return of advance amount, but only the suit for bare injunction and that too in the year 2022.

10. The learned Counsel for the fifth respondent would rely on the decision of the Hon'ble Supreme Court in ***Suresh Vs. Mahadevappa Shivappa Danannava and Others*** reported in ***AIR 2005 SC 1047*** wherein, a sale agreement came to be entered into between the parties on 25.12.1988 and after exchange of legal notices, the complaint came to be lodged on 17.05.1999 and the Hon'ble Apex Court has specifically observed that the complaint filed after a lapse of 11 ½ years is not maintainable at that distance of time and the complaint would only reveal that the allegations are of civil in nature and do not prima facie disclose commission of criminal offence under Section 420 I.P.C.

11. The learned Counsel would also rely on the decision of Rajasthan High Court in ***Rupa Ram and others Vs. State of Rajasthan and another*** wherein a sale agreement was executed on 21.06.2004 and the complaint came to be lodged on 08.10.2024. The High Court by



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referring to the decision of the Hon'ble Supreme Court has observed as follows:

“Thus, the case of the prosecution seems to be that neither agreement has been completed and nor the amount taken in lieu of the agreement has been taken and both are squarely covered by the precedent law cited by learned counsel for the petitioner where the Hon'ble Apex Court has held that no suit for specific performance was filed by the complainant for more than 10 years, the complainant (13 of 22) was abuse of process of the court to enforce civil rights which had become unenforceable. Furthermore, the Hon'ble Apex Court in the precedent law cited by learned counsel for the petitioner also made it clear that in case of a person not returning the amount taken in lieu of the agreement then also he shall not be entitled to be prosecuted in the criminal proceedings. The precedent law cited by learned counsel for the petitioner is absolutely applicable in the present case and original agreement was signed between the parties on 21.06.2004 whereas after all no civil proceedings whatsoever took place between the parties and a FIR was filed on 08.10.2014 after a delay of more than 10 years. The legally enforceable agreement which could not be enforced by the civil litigation due to limitation. This Court takes note of argument of learned Public Prosecutor that the land was sold by the petitioner but complainant himself gave a



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specific reason in FIR that the agreement could not culminate into execution because the variation of the price in the immovable property which resulted into failure of the agreement. In light of such specific complaint on the face of it, it is apparent that the present FIR is nothing but abuse of process of law with the ill-intention of executing the contract which had virtually failed in light of the limitation law.”

12. In the present case, as already pointed out, the agreement was allegedly entered into between the parties on 22.09.2015 and the first police complaint came to be lodged on 04.04.2022 after the expiry of period of limitation meant for taking the civil action. Considering the above, this Court has no hesitation to hold that the present action is nothing but abuse of process of law. As rightly observed by the learned Magistrate, the petitioner has lodged the complaint for the reason that the second respondent has failed to execute the sale deed in pursuance of the sale agreement alleged to have been entered into between the parties and as such, this Court has no other option but to say that the petitioner has been attempting to give the civil dispute a criminal colour. As rightly observed by the learned Magistrate, the complaint does not disclose any cognizable offence and as such, the impugned order dismissing the



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petition filed under Section 156(3) Cr.P.C., cannot be found fault with.

Consequently, the Criminal Revision Case is devoid of merits and the same is liable to be dismissed.

13. In the Criminal Revision Case is dismissed.

30.04.2025

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

To

1. The Judicial Magistrate, Uthamapalayam
2. The Inspector of Police,
Cumbum South Police Station,
Uthamapalayam Taluk,
Theni 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
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Dated: 30.04.2025