



Crl.R.C.(MD)No.335 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2025

Pronounced on : 21.03.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.335 of 2025

Balasubramanian

... Petitioner

Vs.

1.K.Manivel

2.The State of Tamilnadu represented by
The Inspector of Police,
Karur Town Police Station,
Karur, Karur District.

... Respondents

Prayer : This Criminal Revision Petition filed under Sections 438 r/w 442 B.N.S.S., to call for the order as made in Crl.M.P.No.482 of 2024 dated 20.01.2025 as passed by the learned Judicial Magistrate No.I, Karur, Karur District and subsequently set aside the same forthwith in the above criminal revision petition.

For Petitioner : Mr.S.Palanivelayutham

For R2 : Mrs.M.Aasha
Government Advocate (Crl. Side)



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ORDER

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The Criminal Revision is directed against the order passed in Crl.M.P.No.482 of 2024 dated 20.01.2025 on the file of the Court of the Judicial Magistrate No.I, Karur, dismissing the petition filed under Section 156(3) of the Code of Criminal Procedure.

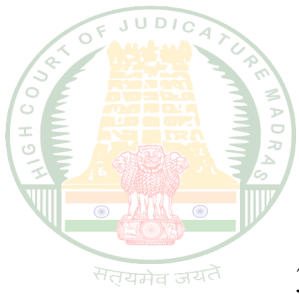
2. The case of the petitioner is that the petitioner is running a finance investment company under the name and style of Kandhamurugan finance at NRMP Street, Kovai Road, Karur for the past 10 years, that the first respondent, who is an advocate, is having office in the very same building, that both of them had started Sri Vetri Vinayaga Finance Company near Thirumalai School Vengamedu, that since there arose some misunderstanding between the partners, the petitioner has come out of the partnership firm on 05.07.2023, that the petitioner had obtained loan of Rs.5 lakhs from the first respondent but he paid Rs.10 lakhs towards principal and interest, that when the petitioner was not available, the second respondent had removed the finance company rubber stamp and other seal from the room occupied by them jointly earlier and issued a notice, as if, the petitioner and his partners had obtained loan of Rs.5 lakhs, that when the same was questioned, the first respondent abused the



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petitioner in filthy language and caused criminal intimidation, that the first respondent had also taken the documents containing the petitioner's signature and other documents containing firm transactions along with table, that when the petitioner demanded the first respondent to return the table, he threatened and insisted to pay the amount and get back the table, that compromise attempted by the partners were of no avail, that the petitioner has then sent a complaint to the Karur Bar Association and at the enquiry conducted by the office bearers, the first respondent was warned and directed to return the table, but he has not complied with the same, that the petitioner has sent a complaint to the District Superintendent of Police on 13.12.2023 and at the enquiry conducted at Karur Town Police Station on 26.12.2023, the first respondent has come along with 15 advocates and abused the petitioner and refused to hand over the table, that the petitioner has sent a complaint to the Inspector General of Police on 05.01.2024 and at the enquiry, the first respondent has come with advocates and gave false particulars and also threatened the petitioner to return Rs.30 lakhs and that since there was no further action on the part of the second respondent police, the petitioner was constrained to file the present petition under Section 156(3) Cr.P.C.



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3. The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C. on file in Crl.M.P.No.482 of 2024 and upon perusing the petition and petitioner's affidavit and on hearing the petitioner's side, has passed the impugned order dated 20.01.2025, by holding that the petitioner has not complied with the mandatory requirements and that there was no scope for proceeding further, dismissed the petition.

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."

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



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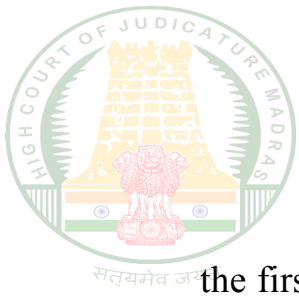
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prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step 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.

6. As already pointed out, even according to the petitioner, himself and the first respondent were partners of Sri Vetri Vinayaga Finance Company.

7. According to the petitioner, he obtained loan of Rs.5 lakhs from



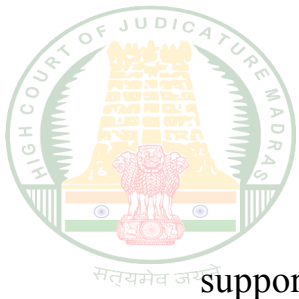
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the first respondent and though the same was repaid with interest at Rs.10 lakhs, the first respondent has been demanding more amount and he had taken the rubber stamp and seals and documents containing the petitioner's signature and other papers along with table available in the office room used by both of them earlier. The learned Magistrate has specifically observed that the petitioner has not produced any materials *prima facie* to show that he obtained loan and paid the same with exorbitant interest, totally at Rs.10 lakhs.

8. As rightly contended by the learned Government Advocate (Criminal Side), even according to the petitioner, he has come out of the partnership business with the first respondent and if that be so, he has not given any reason or explanation as to why he kept his table or the documents containing his signature in the room used by both of them earlier as partners of their firm. It is not the case of the petitioner that he was in continuous possession of the said room used by both of them earlier.

9. Considering the petitioner's complaint and the affidavit filed in



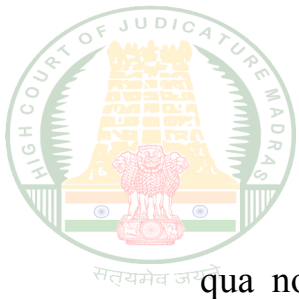
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support of the petition filed under Section 156(3) Cr.P.C., it is clearly evident that there existed money transaction dispute between the parties and that the petitioner has been attempting to give money dispute a criminal color.

10. The learned Magistrate, in the impugned order, has also observed that the petitioner has not sent any complaint to the jurisdictional police station and in case of the failure on the part of the jurisdictional police to take action, he should have sent a complaint to the Superintendent of Police and even if there is no action, he is entitled to approach the jurisdictional Magistrate Court under Section 156(3) Cr.P.C. and that the records would reveal that the petitioner has not sent any complaint to the Inspector of Police as contemplated under Section 154(1) Cr.P.C.

11. It is settled law that in order to make a duly constituted application for invoking the jurisdiction of the learned Judicial Magistrate under Section 156(3) of the Cr.P.C., compliance of subsections (1) & (3) of Section 154 of the Cr.P.C. would be absolutely necessary and it is sine



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qua non for making the application maintainable under Section 156(3) Cr.P.C. The petitioner before filing the petition under Section 156(3) of Cr.P.C. has to file a complaint before the jurisdictional police and in case of their failure to register the complaint, he has to approach the Superintendent of Police for the said purpose and even thereafter, complaint is not registered, then he has to approach the jurisdictional Magistrate.

12. In the present case, it is not the case of the petitioner that the petitioner sent a complaint to the jurisdictional police as contemplated under Section 154(1) Cr.P.C. Despite the specific observation made by the learned Magistrate, the petitioner has not produced any iota of materials to show his compliance under Section 154(1) Cr.P.C.

13. Considering the above, this Court has no other option but to say that the petitioner has not complied with the mandatory requirements before filing the petition under Section 156(3) Cr.P.C. Viewing from any angle, the impugned order dismissing the petition filed under Section 156(3) Cr.P.C. by the learned Magistrate cannot be found fault with.



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Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

14. In the result, this Criminal Revision Case stands dismissed. No costs.

21.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Judicial Magistrate No.I,
Karur.
- 2.The Inspector of Police,
Karur Town Police Station,
Karur, Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
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Dated : 21.03.2025