



CrL.R.C.(MD)No.435 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.435 of 2025

and

CrL.M.P.(MD)No.4423 of 2025

1.K.K.Haafil

2.A.K.Abdul Kareem

... Petitioners

-VS-

1.The State of Tamil Nadu,
Rep. By the Inspector of Police,
Airport Police Station (Law and Order),
Tiruchirappalli.

2.K.N.Mohammed Fasil

... Respondents

PRAYER : Criminal Revision Case is filed under Section 438 r/w. 442 of BNSS, 2023, to call for the records relating to the order passed in CrL.M.P.No.3969 of 2025 dated 07.03.2025, on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli and set aside the same.

For Petitioners	: Ms.S.Mahalakshmi
For 1 st Respondent	: Mr.M.Sakthi Kumar
	Government Advocate (Crl.)
For 2 nd Respondent	: Mr.P.Arun Jayatram

ORDER

This Criminal Revision Case is filed by the petitioners, who are the



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proposed accused Nos. 1 and 2, challenging the docket order dated 07.03.2025, passed by the learned Judicial Magistrate No.VI, Tiruchirappalli, in CrL.M.P.No.3969 of 2025, directing the first respondent police to register an FIR based on the application filed by the second respondent/complainant.

Factual Matrix:-

2.The second respondent, who is the Director of M/s.N.Mohammad Mian Rowther Company Pvt. Ltd., alleged that the petitioners herein along with 50 unknown persons, trespassed into the property belonging to the company on 30.12.2024 at 03.30 a.m., demolished a portion of the compound wall using a JCB vehicle, caused damages estimated at Rs. 20,000/- and threatened to kill the complainant and his brother. Based on the said incident, a complaint was lodged before the first respondent police. A Community Service Register (CSR) receipt was issued in CSR No. 164 of 2024, dated 30.12.2024. However, no FIR was registered. Aggrieved by the inaction, the second respondent has filed CrL.M.P.No.3969 of 2025 before the learned Judicial Magistrate under Section 173(3) of the BNSS. The learned Magistrate, upon considering the materials produced, including sale deeds, company registration documents, photographs of the alleged damage, and copies of the complaint and CSR, directed the first respondent police to register an FIR and proceed with the investigation. Challenging the said docket order, the present Revision Case has been



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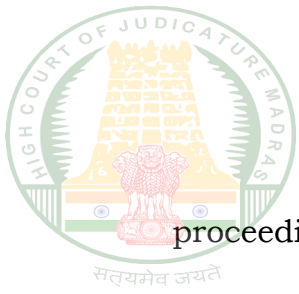
preferred.

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Submissions:-

3.The learned counsel appearing for the petitioners submitted that the dispute between the parties is purely civil in nature, arising out of a title and possession issue regarding the subject property. A civil suit in O.S.No.515 of 2023 is already pending before the learned District Judge, Tiruchirappalli, seeking declaration and injunction by the second respondent himself and the same is pending. She further pointed out that the police had already conducted an enquiry, pursuant to which a report was filed before the learned Magistrate clearly stating that both parties claimed title over the property. The police advised the parties to approach the civil forum. Additionally, the matter was referred to the Revenue Divisional Officer under Section 164 of the BNSS for preventive action. It was contended that the learned Magistrate failed to consider the status report of the police and mechanically passed a non-speaking, cryptic order directing registration of FIR, which is liable to be set aside.

4.Per contra, the learned counsel appearing for the second respondent submitted that the acts alleged against the petitioners trespass, demolition, criminal intimidation, and mischief are clearly cognizable offences attracting penal consequences, and therefore, the Magistrate rightly directed registration of FIR. He submitted that criminal



proceedings are not barred merely because a civil suit is pending and that the learned Magistrate had applied his judicial mind to the materials on record before passing the impugned order.

5. Heard the learned counsel on either side and carefully perused the materials available on record.

Points for Consideration:-

6. The primary questions that arise for consideration are:-

(i) Whether the learned Magistrate was justified in mechanically directing registration of FIR without application of mind?

(ii) Whether the dispute is purely civil in nature, or whether it discloses a cognizable offence warranting criminal investigation?

Analysis and Findings:-

7.1. On the nature of the dispute - The police report clearly indicates that both parties are claiming title and possession over the property. It is also admitted that a civil suit is pending before the civil court on the same issue. The Hon'ble Supreme Court in **G.Sagar Suri v. State of U.P.**,¹ has held that:-

“It is the duty of the court to see whether the complaint, even if taken at face value, discloses a civil dispute or a criminal offence.”

¹ (2000) 2 SCC 636



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7.2. In the case of **Chandrapal Singh and others vs Maharaj Singh and another**², the Hon'ble Apex Court commences the judgment as follows:-

“Afrustrated landlord after having met his Waterloo in the hierarchy of civil courts, has further enmeshed the tenant in a frivolous criminal prosecution which prima facie appears to be an abuse of the process of law. The facts when stated are so telling that the further discussion may appear to be superfluous”.

7.3. Similarly, in **State of Haryana v. Bhajan Lal**³, the Apex Court held that:-

“Where a civil dispute is cleverly cloaked as a criminal complaint, the criminal process cannot be used for oblique purposes.”

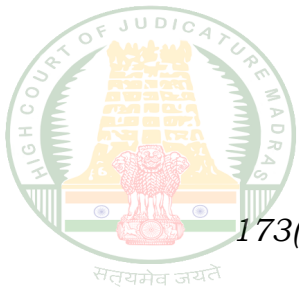
7.4. On Judicial Scrutiny under Section 173(3) of BNSS - Section 173(3) of BNSS requires the Magistrate to judicially apply his mind while directing registration of FIR, and such power is not automatic. In **Om Prakash Ambadkar v. State of Maharashtra**⁴, the Hon'ble Supreme Court held:-

“The Magistrate is required to consider the status report and the submissions of the concerned police officer before passing a direction under Section 156(3) of Cr.P.C. (corresponding to Section

² AIR (1892) SC 1238

³ 1992 Supp (1) SCC 335

⁴ Criminal Appeal No.352 of 2020



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173(3) BNSS). The order must reflect application of mind.”

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7.5. In the present case, the impugned order is entirely devoid of reasons and fails to consider the police report, which advised the parties to approach the civil forum. No *prima facie* satisfaction has been recorded by the learned Magistrate regarding the commission of any cognizable offence.

Conclusion:-

8. The impugned docket order dated 07.03.2025, passed by the learned Judicial Magistrate No.VI, Tiruchirappalli, is vitiated for non-application of mind and failure to consider relevant materials, including the police report. The dispute appears to be predominantly civil in nature and there is already a civil suit pending between the parties.

9. The mechanical direction to register FIR, without judicial scrutiny and without satisfying the statutory mandate under Section 173(3) of BNSS, cannot be sustained in law.

Result:-

10. Accordingly, the Criminal Revision Case is allowed. The docket order dated 07.03.2025 passed by the learned Judicial Magistrate No.VI, Tiruchirappalli, in CrL.M.P.No.3969 of 2025 is hereby set aside. The matter is remanded back to the learned Magistrate for fresh consideration in



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accordance with law, after hearing both parties and upon due consideration of the police report and other materials on record. No costs.

Consequently, connected miscellaneous petition is closed.

04.08.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

- 1.The Judicial Magistrate No.VI, Tiruchirappalli.
- 2.The Inspector of Police,
Airport Police Station (Law and Order),
Tiruchirappalli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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