

Crl.R.C.(MD)No.436 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.04.2025

Delivered on : 16.04.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.436 of 2025

K.Veerakumar

... Petitioner

Vs.

1.The Superintendent of Police,
Madurai.

2.The Deputy Superintendent of Police,
Samayanallur.

3.The Inspector of Police,
Sholavandan Police Station,
Sholavandan P.S. CSR.No.10/2024, 582/2024)
Madurai District.

4.S.Lakshmi

5.Suriyaprakash

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 (1) of BNSS., to call for the records pertaining to the impugned order passed in Cr.M.P.No.3084 of 2024, dated 30.12.2024 on the file of the learned Judicial Magistrate Vadipatti, Madurai.



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For Petitioner : Mr.K.Prabakaran

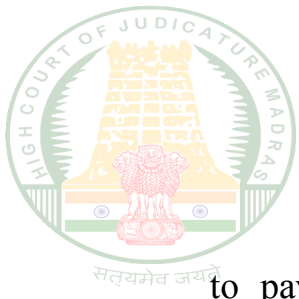
For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Criminal Side)
for R1 to R3.

: Mr.S.Palani Velayutham, for R1.

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.3084 of 2024, dated 30.12.2024 on the file of the Court of the Judicial Magistrate, Vadipatti, Madurai, dismissing the petition filed under Section 175(3) of BNSS.

2.The case of the petitioner is that he is doing building construction work; that the respondents 4 and 5 approached the petitioner and requested him to construct a house in 1843 sq.ft; that the petitioner has informed that the same would cost Rs.2,500/- per sq.ft, for which the respondents 4 and 5 had agreed for the same; that both the parties entered into an agreement on 14.01.2023; that the petitioner in pursuance of the same dug a borewell and installed motor and pumpsets by spending Rs.1,50,000/-; that after completion of 90% of the construction work, the respondents 4 and 5 have



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to pay Rs.47,00,000/-, but they have paid only Rs.36,00,000/- in four installments and still a sum of Rs.11,00,000/- is found due from the respondents 4 and 5; that in the meanwhile, they have engaged another mason and proceeded with construction work and when the same was questioned by the petitioner, they have been postponing the payment on some pretext or other; that the respondents 4 and 5 have agreed to pay the balance amount before the local elders; that since the respondents 4 and 5 have not paid the balance amount, the petitioner lodged a complaint on 09.01.2024 before the Cholavandhan Police Station and the same came to be received in C.S.R.No.10 of 2024 and at the enquiry, it was decided to engage an engineer and to get the valuation of constructions made; that the engineer, who visited the building, informed that the respondent 4 and 5 have to pay Rs.6,00,000/- in addition to the amount already paid; that though the respondents 4 and 5 have agreed to pay the amount on or before 03.03.2024, they have not chosen to make any payment; that when the petitioner visited the house of the respondents 4 and 5 and demanded the payment of balance amount, they have abused the petitioner in filthy language and caused criminal intimidation; that the petitioner lodged a compliant before the Cholavandhan Police Station and CSR came to be



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issued in C.S.R.No.582 of 2024; that since there was no action, the petitioner sent complaints to the Deputy Superintendent of Police, Samayanallur and District Superintendent of Police, Madurai on 24.10.2024 and 05.11.2024 respectively and that since there was no action on their part also, the petitioner was constrained to file a petition under Section 175(3) of BNSS for registering the case and for investigation.

3.The learned Judicial Magistrate, taking the petition filed under Section 175(3) of BNSS on file in Cr.M.P.No.3084 of 2024, upon perusing the petition, petitioner's affidavit and other materials and on hearing the petitioner's side, has passed the impugned order, dated 30.12.2024, by holding that the petitioner has been attempting to give contractual disputes a criminal color, 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 *depreacted* 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 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 jurisdiction under Section 482 of the



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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.It is the specific case of the petitioner that himself and the respondents 4 and 5, who are husband and wife entered into an agreement on 14.01.2023, wherein the petitioner has agreed to construct a house in 1843 sq.ft and the respondents 4 and 5 have agreed to pay at Rs.2,500 per sq.ft and that he has completed 90% of the work, for which, the respondents 4 and 5 have to pay Rs.47,00,000/-, but they have paid only Rs.36,00,000/- and that therefore, there is still balance of Rs.11,00,000/- due to him by the respondents 4 and 5.

7.It is the further case of the petitioner that at the police enquiry, it was decided to engage another engineer to value the constructions so far made and in pursuance of the same, an engineer was appointed and he visited the building and valued the same and according to him, the respondents 4 and 5 have to pay Rs.6,00,000/- more in addition to the amount already paid and that though the respondents 4 and 5 have undertaken to pay the said amount, they have not chosen to make any payment. The petitioner has produced the alleged agreement, dated 14.01.2023 entered into between the parties subsequent to the valuation made by the engineer, who was engaged for valuing the building.



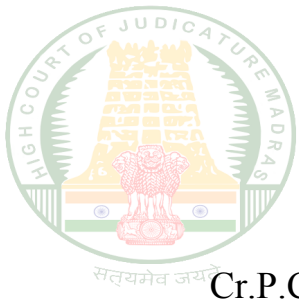
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8. As rightly observed by the learned Magistrate, there existed disputes with regard to the agreements entered into between the parties originally and subsequent to the valuation made by the engineer.

9.As rightly contended by the learned Government Advocate (Criminal Side), the petitioner in order to give a criminal color has purposely added an occurrence as if he was abused and threatened, when he visited the house of the respondents 4 and 5. As rightly contended by the learned Government Advocate (Criminal Side), the petitioner has lodged more complaints and on that basis, CSRs came to be registered and enquiry was conducted and as such, the contention of the petitioner that thereafter, he visited the house of the respondents 4 and 5 for demanding the balance amount is very hard to believe.

10. Considering the petitioner's affidavit and other materials available on record, this Court has no hesitation to hold that the petitioner has been attempting to give contractual disputes a criminal color and as such, the impugned order, dismissing the petition filed under Section 175(3) of



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Cr.P.C., cannot be found fault with. Consequently, this Court concludes that the Criminal Revision Case is devoid of merits and the same is liable to be dismissed.

11. In the result, the Criminal Revision Case is dismissed.

16.04.2025

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

To

- 1.The Judicial Magistrate Vadipatti, Madurai.
- 2.The Superintendent of Police, Madurai.
- 3.The Deputy Superintendent of Police,
Samayanallur.
- 4.The Inspector of Police,
Sholavandan Police Station,
Sholavandan Madurai District.
- 5.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.436 of 2025

Dated: 16.04.2025