



CrL.R.C.(MD)No.520 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.520 of 2025

and

CrL.M.P.(MD)No.5372 of 2025

M.Subakaran

... Petitioner

-VS-

1.M.Maheswaran

2.State of Tamil Nadu,
The Inspector of Police,
Susheendram Police Station,
Kanyakumari District.

... Respondents

PRAYER : Criminal Revision Case filed under Section 438 r/w. 442 of BNSS, 2023, to call for the records pertaining to the order in Cr.M.P.No. 4018 of 2024 dated 21.03.2025, on the file of the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari and set aside the same.

For Petitioner

: Ms.T.Seeni Syed Amma

M/s.Roy and Roy Associates

For Respondents

: Mr.H.Elango (for R1)

Mr.M.Sakthi Kumar

Government Advocate (CrL.) (for R2)

ORDER

Challenging the order passed by the learned Judicial Magistrate

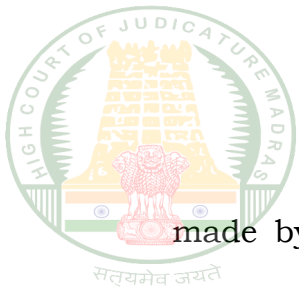


CrL.R.C.(MD)No.520 of 2025

No.III, Nagercoil, Kanyakumari, in Cr.M.P.No.4018 of 2024 dated 21.03.2025, this Criminal Revision Petition is filed.

WEB COPY

2.The petitioner herein is the proposed accused in Cr.M.P.No.4018 of 2024. The proposed accused and the complainant are brothers. Certain disputes prevail between the proposed accused and the complainant due to inter caste marriage performed by the complainant. Thereafter, certain property disputes also crept in between the brothers. The father of the proposed accused and the complainant passed away on 20.06.2020. Pursuant to the same, on 23.06.2020, the complainant lodged a complaint before the second respondent police station as against the proposed accused. Due to inaction of the same, further the complaint was sent by registered post to the Superintendent of Police on 24.06.2020. The Superintendent of Police did not take any action. During the year 2024, further dispute arose between the complainant and proposed accused with respect to the hindrance caused by the proposed accused, preventing the complainant from visiting his father's graveyard and in this regard, the complainant again lodged a complaint before the second respondent Police. For which, the police did not take any action. Following which, he made a complaint before the Superintendent of Police through registered post and the same is also not considered. Hence, the complainant filed a petition under Section 175(3) of BNSS, 2023, before the learned Judicial Magistrate No.III, Nagercoil and the learned Judicial Magistrate perused the complaint

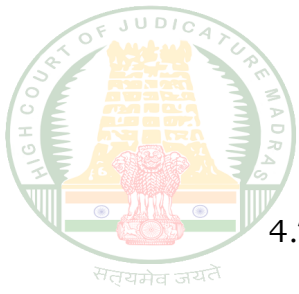


CrL.R.C.(MD)No.520 of 2025

made by the complainant and accompanying documents and came to a conclusion that the materials provided by the complainant revealed that a family dispute exist between the complainant and proposed accused and on the basis of which, directed the respondent police to conduct investigation in accordance of law complying the direction of the Hon'ble Supreme Court in ***Lalita Kumari v. Government of U.P.***¹ and complete the same within a period of 30 days and filed a report of compliance before the said Court. Challenging the same, this Criminal Revision Case is filed.

3.The learned counsel appearing for the petitioner categorically contended that there is massive difference between the mandates of Section 156(3) of Criminal Procedure Code, 1973 and Section 175(3) of BNSS, 2023. Pointing out that earlier any Magistrate was empowered under Section 190 to order an investigation as per Section 156(3) of Cr.P.C. The new BNSS has under Section 175(3) mandated that any Magistrate shall consider an application supported by an affidavit made under Sub Section (4) of Section 173, only after making such enquiry in this regard and also requiring the jurisdictional police to file a report and on consideration of the same, investigation could be ordered. However, such exercise has not been followed by the learned Judicial Magistrate and sought for interference of this Court.

¹ 2014 (2) SCC 1



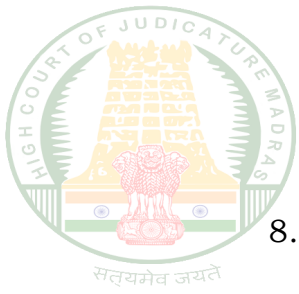
CrL.R.C.(MD)No.520 of 2025

4.The learned Government Advocate (CrI.) appearing for the second respondent pointed out that such an exercise is warranted only if the learned Magistrate thinks it necessary and it is not the mandatory provision, since the word 'may' is found in Sub Clause (3) of Section 175 of BNSS, 2023.

5.The learned Government Advocate (CrI.) further submitted that in tune with the impugned order dated 21.03.2025, the second respondent had called the complainant as well as the proposed accused for enquiry before the Investigation Officer and both the brothers had appeared and had expressed their willness to amicably settle their scores among themselves and in that stage, the investigation is still pending.

6.The learned counsel appearing for the first respondent further submitted before this Court that he is willing to settle the disputes with the proposed accused and he will also give an undertaking in writing, if the proposed accused is also willing to settle the matter and give the same in writing before the second respondent police.

7.Heard the learned counsels on either side and carefully perused the materials available on record.



CrL.R.C.(MD)No.520 of 2025

8. Recording the same, I do not find any necessity to interfere with the impugned order passed by the learned Judicial Magistrate No.III, Nagercoil, Kanyakumari, and this Court further direct the petitioner and the first respondent to appear before the second respondent Police and give an undertaking in writing that they are willing to settle their disputes amicably and further, the proposed accused directed not to obstruct the first respondent from visiting his father's tomb at any point of time.

9. In view of the same, this Criminal Revision Case is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

16.07.2025

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

To

1. The Judicial Magistrate No.III, Nagercoil, Kanyakumari District.
2. The Inspector of Police,
Susheendram Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



CrL.R.C.(MD)No.520 of 2025

L.VICTORIA GOWRI, J.

Mrn

Cr1.R.C.(MD)No.520 of 2025

16.07.2025