



Crl.R.C.(MD)No.606 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 25.03.2025

Pronounced on : 09.04.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.606 of 2024

S.Ponnusamy

... Petitioner

Vs.

1.Durai Murugan

2.Muthamil Selvi

3.Gayathiri

4.Rajakannan

5.The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.

... Respondents

Prayer : This Criminal Revision Case filed under Sections 397(1) r/w 401 Cr.P.C., to call for the records in Cr.M.P.No.174 of 2024 on the file of the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District and set aside the order dated 28.05.2021 and direct the Inspector of Police, All Women Police Station, Aruppukkottai, Virudhunagar to register an FIR.



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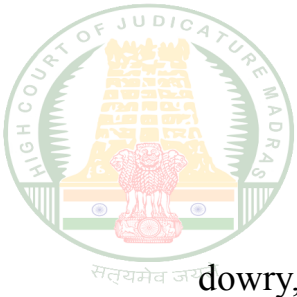
Crl.R.C.(MD)No.606 of 2024

For Petitioner : Mr.C.Suresh Kannan
For R1 to R4 : Mr.P.Ganapathi Subramanian
For R5 : Mrs.M.Aasha
Government Advocate (Crl. Side)

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.174 of 2024 dated 28.05.2024 on the file of the Court of the Judicial Magistrate, Aruppukkottai, dismissing the petition filed under Section 156(3) of the Code of Criminal Procedure.

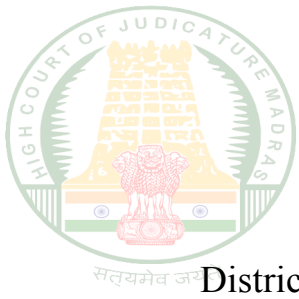
2. The case of the petitioner is that the marriage between the petitioner's daughter Revathi and the first respondent was solemnized on 02.03.2015, that the petitioner has given 60 sovereigns of gold jewels, cash of Rs.10,00,000/- and household articles worth about Rs.5,00,000/- and also 5 sovereigns of jewels to the first respondent, that the said Revathi, after marriage, had been living with her husband, mother-in-law, sister-in-law and her husband/respondents 1 to 4 herein as a joint family at Chennai, that though the said Revathi was working in TVS Auto log and was getting monthly salary of Rs.40,000/-, the private respondents had directed the said Revathi not to go for work and also demanded more



Crl.R.C.(MD)No.606 of 2024

WEB COPY

dowry, that the private respondents had directed the said Revathi to get Rs.15,00,000/- from her parents for getting the property in othi and accordingly, the petitioner has arranged and sent Rs.15,00,000/-, that the said Revathi gave birth to a female child on 02.12.2015 in Keerthika Hospital, Madurai and when the same was informed to the private respondents, they have not turned up, that when the said Revathi visited her matrimonial home, the respondents 2 and 3 had threatened her not to return to the matrimonial home with female child, that the private respondents had been harassing the said Revathi and also demanded more dowry, that subsequently the said Revathi was affected by cancer and the private respondents have not provided proper food and treatment to her, that the petitioner alone has sent money for the treatment and for her food, that the said Revathi died on 14.07.2023 and on the third day ceremony, the private respondents had agreed to return 60 sovereigns of gold jewels and cash of Rs.10,00,000/- given at the time of marriage and Rs.15,00,000/- given for othi, but subsequently they have not chosen to return the same, that the petitioner has sent a complaint to the fifth respondent on 10.03.2024 and without conducting any enquiry, CSR alone came to be issued, that the petitioner has then sent a complaint to the



Crl.R.C.(MD)No.606 of 2024

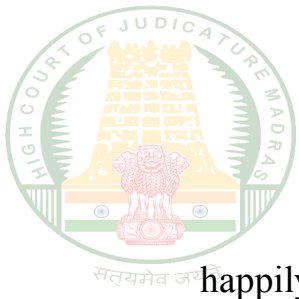
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District Superintendent of Police, Virudhunagar on 13.03.2024 and that since there was no action, the petitioner was constrained to file the above petition under Section 156(3) Cr.P.C.

3. The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C. on file in Crl.M.P.No.174 of 2024 and upon perusing the petition and the petitioner's affidavit and on hearing the arguments of the petitioner's side, has passed the impugned order dated 28.05.2024 holding that there was no scope for proceeding further, dismissed the petition.

4. The learned counsel appearing for the petitioner in his arguments would reiterate the petition contentions and further stated that the learned Magistrate, without considering the factual aspects of the case in proper perspective, has dismissed the petition mechanically and that therefore the petitioner was constrained to file the present revision.

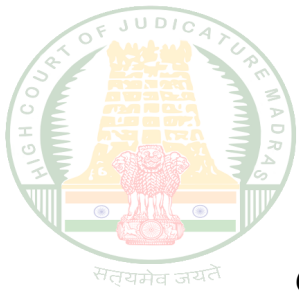
5. The learned counsel appearing for the private respondents would submit that the first respondent had been living with his wife Revathi



Crl.R.C.(MD)No.606 of 2024

WEB COPY

happily and due to their wedlock, they were blessed with a female child, that when the first respondent's wife Revathi was alive, neither his wife Revathi nor the petitioner has lodged any complaint with regard to the alleged dowry demand or with regard to any other harassment allegedly meted out to her, that since the said Revathi was affected by cancer, the first respondent alone had taken care of the entire treatment, that the first respondent had spent nearly Rs.12,00,000/- for cancer treatment, but despite treatment, she succumbed to the disease, that the said Revathi alone had pledged some of the jewels for the purpose of getting property in othi, that the first respondent's female child has been under the care and custody of the first respondent, that when the first respondent was attempting to redeem the jewels, the petitioner has lodged the above complaint with false and untenable allegations, that the petitioner's allegations with regard to the dowry demand and harassment allegedly caused to the said Revathi are false and imaginary and that the learned Magistrate, considering the entire facts and circumstances in proper perspective, has rightly dismissed the petition filed under Section 156(3) Cr.P.C.



Crl.R.C.(MD)No.606 of 2024

WEB COPY

6. The learned Government Advocate (Criminal Side) appearing for the fifth respondent would submit that after receipt of the complaint from the petitioner, enquiry was conducted, that the first respondent alone had spent for the cancer treatment and that the first respondent alone had spent Rs.7,00,000/- directly and Rs.5,00,000/- through insurance and despite treatment, the said Revathi died subsequently.

7. It is pertinent to mention that the learned Magistrate, upon receipt of the petition filed under Section 156(3) Cr.P.C., called for a report from the concerned police and in pursuance of the same, the fifth respondent police has submitted a report, wherein, they have stated that the marriage between the petitioner's daughter Revathi and the first respondent was solemnized on 02.03.2015 and thereafter they were living at Chennai and that since the said Revathi was affected by cancer, the first respondent had spent more than Rs.12,00,000/- for the treatment and despite treatment, she died on 14.07.2023.

8. As rightly contended by the learned counsel appearing for the private respondents, it is not the case of the petitioner that he had lodged



Crl.R.C.(MD)No.606 of 2024

WEB COPY

any complaint of dowry demand or any other harassment allegedly meted out to his daughter Revathi while she was alive and it is also not his case that his daughter Revathi has lodged any such complaint.

9. Admittedly, the petitioner's granddaughter is now under the care and custody of the first respondent.

10. It is not in dispute that the said Revathi was affected by cancer and despite treatment, she succumbed to the disease on 14.07.2023.

11. It is the specific contention of the private respondents that the first respondent had alone spent more than Rs.12,00,000/- for the cancer treatment. According to them, though the petitioner alleged that he had sent Rs.15,00,000/- for taking house property in othi and for cancer treatment, he has not produced any iota of evidence.

12. As rightly contended by the learned counsel appearing for the private respondents and the learned Government Advocate (Criminal Side) appearing for the fifth respondent, the petitioner has not produced any iota of materials to show the quantum of jewels and cash alleged to have been given at the time of his daughter's marriage.



Crl.R.C.(MD)No.606 of 2024

WEB COPY

13. The learned counsel appearing for the petitioner would submit that since their petition under Section 156(3) Cr.P.C. discloses the commission of cognizable offence, the Judicial Magistrate is duty bound to forward the complaint to the concerned police for registering an FIR and that he has no power or jurisdiction to dismiss the same by himself. The above contention of the learned counsel appearing for the petitioner is absolutely devoid of merit as the complainant does not have an unqualified right to demand a police investigation in all circumstances and moreover, it is not mandatory on the part of the Judicial Magistrate to refer the complaint to the concerned police for registration of the case. But it is pertinent to note that it is always open to the petitioner to file a private complaint and proceed to prosecute the accused even if the Judicial Magistrate refuses to exercise the power under Section 156(3) Cr.P.C. It is settled law that the Judicial Magistrate, while exercising power under Section 156(3) Cr.P.C., cannot act as a post office and is duty bound to consider the nature of the accusation or the offences alleged and to decide about the course of action to be taken and it cannot be said that the order of Judicial Magistrate refusing to direct the police to register an F.I.R., completely shut out all the opportunities for the complainant. If the



Crl.R.C.(MD)No.606 of 2024

WEB COPY

petitioner is having necessary particulars and materials to show a *prima facie* case against the proposed accused, he can very well file a private complaint under Section 200 Cr.P.C., and there is absolutely no bar or prohibition for filing a private complaint on the ground that the petition filed under Section 156(3) Cr.P.C., was dismissed by the Magistrate.

14. Considering the petition and the petitioner's affidavit and other materials available, the learned Magistrate, by observing that there is absolutely no scope for proceeding further, has rightly dismissed the petition and as such, the same cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

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

09.04.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
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Crl.R.C.(MD)No.606 of 2024

K.MURALI SHANKAR,J.

csn

To

1. The Judicial Magistrate,
Aruppukkottai,
Virudhunagar District.
- 2.The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order made in
Crl.R.C.(MD)No.606 of 2024

Dated : 09.04.2025