



CRL RC(MD)No.708 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.08.2025

PRONOUNCED ON : 13.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.708 of 2022

Sriram Deepak

..... Petitioner

Vs.

- 1.Ramalingam,
Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.
- 2.Thirugnanam,
Sub-Inspector of Police,
Avudaiyarkovil Police Station,
Pudukottai District.
- 3.Balamurugan,
Head Constable,
Avudaiyarkovil Police Station,
Pudukottai District.
- 4.Sathish,
Constable,
Avudaiyarkovil Police Station,
Pudukottai District.
- 5.Manokaran,
Constable,
Avudaiyarkovil Police Station,
Pudukottai District.



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6.Thilagar,
Constable,
C/o. Avudaiyarkovil Police Station,
Pudukottai District.

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C, to call for the records pertaining to the order passed in CrI.M.P.No.3162 of 2022 dated 29.06.2022 by the learned Judicial Magistrate, Aranthangi and set aside the same.

For Petitioner	: Mr. T. Lenin Kumar
For R-1	: No appearance
For R-2	: Mr.Sethuraman, M/s.K.B.S. Law Office
For R-3 to R-6	: K.C. Maniyarasu

ORDER

Prologue:

“Power, when vested in authority, must be tempered with responsibility.”

The Constitution of India guarantees to every citizen the right to life and liberty under Article 21. When those entrusted to protect the law themselves become violators, the Courts are duty-bound to intervene. Allegations of custodial assault and human-rights violations strike at the foundation of civilized justice and require judicial vigilance



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of the highest order.

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2. The present revision petition presents such a situation, where the petitioner alleges that, despite an existing anticipatory bail order, he was illegally detained, assaulted, and humiliated by certain police officials. The learned Judicial Magistrate, Aranthangi, dismissed his private complaint seeking registration of a case against the police under Sections 294(b), 325, 326, 342, 307, and 506(ii) IPC and Section 2(d) of the Protection of Human Rights Act, 1993, on the reasoning that his remedy lay before the civil Court for compensation. This Court is called upon to determine whether such dismissal was legally sustainable.

Gist of the impugned order in Crl.M.P. No.3162 of 2022:

3. The petitioner filed a private complaint alleging grave violations of human rights, including illegal detention, obscene abuse, and custodial violence by the respondent police officials, said to have acted at the behest of the relatives of a woman with whom the petitioner was in love.



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4. The petitioner stated that although he had secured anticipatory bail in CrI.M.P.No.532/2022 in Crime No.17/2022 (lodged by the Avudaiyar Police) on the file of the learned Principal Sessions Judge, Pudukottai, the respondents unlawfully detained him and his friends, assaulted them in the police station, made vulgar remarks, and issued death threats. He sought criminal prosecution of the respondents and compensation of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) for the physical and mental agony suffered.

5. The learned Judicial Magistrate, upon recording the sworn statement of the petitioner and perusing Exs.P1-P7, dismissed the complaint on the following grounds that, the allegations, even if true, gave rise only to a claim for compensation and did not constitute a cognizable criminal offence; the petitioner had not produced medical certificates or independent witnesses to corroborate the claim of custodial violence; there appeared to be enmity between the petitioner and the respondent officials due to earlier protests organized by the petitioner; the petitioner's proper remedy was to approach the civil Court or Human Rights Commission for compensation. Consequently, the complaint was dismissed without taking cognizance under Section 190 Cr.P.C, 1973.



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Grounds of Criminal Revision:

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6. Aggrieved by the dismissal, the petitioner has preferred the present revision petition under Sections 397 and 401 Cr.P.C., 1973. The primary grounds urged are the impugned order is contrary to law, the weight of evidence, and the probabilities of the case. The learned Magistrate failed to appreciate the scope of Sections 200 and 190 Cr.P.C., 1973, which mandate judicial application of mind to the complaint materials. The learned Trial Court ignored the categorical narration of custodial assault made by the petitioner before the learned Magistrate at the time of remand, as recorded in the remand order dated 10.02.2022. The learned Magistrate erroneously held that the petitioner should seek civil compensation, overlooking that acts constituting cognizable offences cannot be diverted to civil forums.

7. The learned Trial Court misdirected itself in assuming that sanction under Section 197 Cr.P.C., 1973, was required, whereas the alleged acts were committed in abuse of power, not in discharge of official duty. The learned Magistrate failed to examine documents and witnesses to determine the veracity of allegations before dismissal. The dismissal was mechanical, perfunctory, and in violation of settled procedure under Sections 200 and 202 Cr.P.C., 1973.



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Submissions of the petitioner:

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8. The learned counsel for the petitioner contended that the impugned order reflects a complete misunderstanding of the scope of a private complaint. Once a complaint discloses cognizable offences, the learned Magistrate has two statutory courses, either to direct investigation under Section 156(3) Cr.P.C., 1973, or to take cognizance under Section 190 Cr.P.C., 1973, after recording statements under Section 200 Cr.P.C., 1973. The learned Magistrate, without resorting to either, summarily dismissed the complaint, thereby frustrating the very object of criminal process.

9. It was further submitted that the petitioner's anticipatory bail order, remand proceedings, and contemporaneous complaints to higher authorities (Exs.P1-P7) clearly show that he was subjected to custodial violence despite judicial protection. The learned Magistrate's own remand order records that the petitioner appeared with visible injuries and was released on bond.

10. The learned counsel for the petitioner emphasized that the Hon'ble Supreme Court and this Court have repeatedly held that no



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prior sanction under Section 197 Cr.P.C., 1973, is required to prosecute public servants for acts of brutality or abuse of power not connected with their official duties. Reliance was placed on ***K.Dhamodharan vs. R.V.Narbabi***¹, where similar complaints were directed to be taken on file or committed to the Human Rights Court.

Submissions of the respondents:

11. Per contra, the learned counsel for the respondents as assisted by the learned Additional Public Prosecutor, Mr.S.Ravi contended that, the impugned order was proper and that no interference was warranted. The complaint, it was argued, lacked medical corroboration or independent testimony. The petitioner's prior political activism and protests against the police suggested mala fides and exaggeration.

12. The learned counsel further argued that, the learned Magistrate exercised judicial discretion in refusing to take cognizance when no *prima facie* evidence existed. It was further urged that the petitioner's grievance, if genuine, could be addressed through

¹ CDJ 2007 MHC 2420



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appropriate administrative or civil forums, but not by invoking the criminal jurisdiction without material proof.

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

Analysis:

14. Having carefully considered the submissions and perused the records, this Court finds the following questions arising for determination:

(i) Whether the learned Magistrate was justified in dismissing the complaint at the threshold without inquiry;

(ii) Whether the complaint disclosed *prima facie* materials to attract cognizable offences; and

(iii) Whether the reasoning that the petitioner should seek civil compensation, instead of criminal remedy, is legally sustainable.



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15. Point (i) - Scope of judicial inquiry under Sections 200 and 190 Cr.P.C., 1973:

It is well settled that when a private complaint discloses allegations of a cognizable offence, the learned Magistrate has a statutory duty either to take cognizance under Section 190 Cr.P.C., 1973, after examining the complainant and witnesses under Section 200 Cr.P.C., 1973, or to refer the complaint for investigation under Section 156(3) Cr.P.C., 1973. The learned Magistrate cannot dismiss the complaint summarily without following this procedure.

15.1. In the instant case, the petitioner filed a detailed complaint supported by documents Exs.P1-P7 and a sworn statement. The Magistrate, instead of conducting an inquiry under Section 200 Cr.P.C., 1973, or ordering investigation, dismissed the complaint on the ground that the petitioner should approach the civil Court for compensation. Such an approach runs contrary to the mandate of law.

16. Point (ii) - Nature of allegations and supporting material:

16.1. The petitioner produced documentary proof including the anticipatory bail order (Ex.P3) obtained by him in CrI.M.P.No.532/2022



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in Crime No.17/2022 (lodged by Avudaiyar Police) on the file of the learned Principal Sessions Judge, Pudukottai, and the remand order of the Magistrate (Ex.P7), wherein the learned Judicial Magistrate herself recorded that the petitioner had anticipatory bail and released him on his own bond after verifying injuries. For the sake of appreciating the seriousness of the petitioner's plight, I find it necessary to extract the order of detention under Section 167 of the Code of Criminal Procedure, 1973, passed by the learned Judicial Magistrate, Aranthagi, dated 10.02.2022 and the same is as follows:

“Five Accused namely 1)Sriram Deepak, 2)Vishnuraj, 3)Seran @ Elancheran, 4)Manikandan and 5)Subramaniyan produced before me on 10.02.2022 at 8.25 p.m. in my residence through Mr.Ramanlingam, Investigation Officer/Inspector of Police. Reason for remand filed and perused. Grounds of arrest and Right of legal aid explained. Accused-Sriram Deepak found 2 contusion injuries -2)on his left thigh, while inquiring he stated that ,”Inspector and police together tied my eyes and assaulted me with reeper at the place of arrest.” Medical screening shows he has contusions measuring 3 x 2 x 1 c.m. Accused Vishnuraj found contusion on his left and right arm and he stated “Police assaulted in his hands with wooden log”. Accused -Subramanian found bruise on his left arm and he stated that “Police tied his eyes and assaulted”. On appearance satisfied



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the accused are neither child nor juvenile. On perusal of records including copy of FIR, CD, Confession, Seizure and Recovery it appears that there are sufficient ground for arrest and in respect of Accused except Sriram Deepak prima facie satisfied to remand. Hence, accused namely 1)Vishnuraj, 2)Seran @Elancheran, 3) Manikandan and 4)Subramanian are here by remanded into judicial custody until 24.02.2022. In respect of Sriram Deepak, one Advocate Mr.Alavideen filed MOA and submitted order of Hon'ble Principal District Judge, Pudukottai, made in Cr.M.P.No.532/2022 dated 09.02.2022. In that order, it was mentioned that interim Anticipatory Bail granted to Accused-Sriram Deepak. The same order has been checked by me from e'court website. Satisfied interim Anticipatory Bail granted and still in force until 11.02.2022. Considering the facts and circumstance and in view of order of interim Anticipatory Bail made in Cr.M.P.No.532/2022, dated 09.02.2022 instead of instant remand until 11.02.2022 the Accused is directed to execute own bond for Rs.10,000/- and shall appear before Investigation Officer and court whenever appearance required”.

16.2. In this regard, the petitioner also lodged multiple contemporaneous complaints to the Chief Secretary, DGP, and other authorities (Ex.P6), immediately after the incident. At this preliminary



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stage, the standard is not proof beyond reasonable doubt but existence of *prima facie* is material. The sworn statement, supported by contemporaneous records and judicial observation in the remand order, clearly satisfy this requirement.

17. Point (iii) - Sanction under Section 197 Cr.P.C., 1973:

17.1. The learned Magistrate erred in assuming that prior sanction was necessary to prosecute the respondents, who are police officials. The settled law is that sanction is not required when the acts alleged are not done in discharge of official duty but in excess or abuse of such power as held by the Hon'ble Apex Court in **Shambhoo Nath Misra v. State of U.P.**² Alleged custodial assault and humiliation are plainly outside the purview of official duties.

17.2. It is reiterated by the Hon' ble Division bench of this Court that prior sanction under section 197 Cr.P.C., 1973, is not warranted to prosecute police officials below the rank of DSP in Crl.O.P.(MD) Nos. 12975 to 12977, 17390 and 21859 of 2018 and 18808 of 2019 and the operative portion of the same is extracted as follows:

² (1997) 5 SCC 326



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“36. In view of the consistent decisions rendered by the Full Bench and Constitution Benches of the Apex Court time and again, which still holds water, we find that the police officer from the rank of Constable to Inspector of Police are not entitled to protection under Section 197 Cr.P.C. and the plea of the accused to interpret the word 'removable by Government' employed in the said provision in broad perspective by re-evaluating the law laid down by this Court in 1979 (1) MLJ (Crl.) 705 & CDJ 2017 MHC 6889 cannot be entertained.”

18. *Erroneous view of remedy:*

The learned Trial Court's view that a victim of police assault should seek compensation in a civil Court is legally unsound. Compensation is a consequential remedy; it does not preclude criminal prosecution when the act complained of constitutes an offence. Custodial violence, if proved, attracts Sections 323, 325, 342, and 506(ii) IPC, apart from constituting a violation of human rights.

19. *Prima facie satisfaction:*

The learned Magistrate's duty is only to determine whether the



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complaint warrants further inquiry, not to assess the sufficiency of evidence for conviction. The detailed narration, coupled with contemporaneous documents, clearly disclose *prima facie* commission of cognizable offences. The dismissal of the complaint at the threshold amounts to denial of justice and abdication of judicial responsibility. This Court in the case of **S.Dhananjeyan Vs R.Mohan**³ has made pertinent observation on scope of Section 202/203 Cr.P.C., 1973, and the relevant portion of the same is extracted as follows:

“8. In Rashmji Kumar (Smt) v Mahesh Kumar Bhada (1997) 2 SCC 397: 1997 SCC (CrI) 415 in the following lines:

"It is fairly settled legal position that at the time of taking cognizance of the offence, the Court has to consider only the averments made in the complaint or in the charge-sheet filed under Section 173, as the case may be. It was held in State of Bihar v. Rajendra Agarwall (1996) 8 SCC 164 that it is not open for the Court to sift or appreciate the evidence at that stage with reference to the material and come to the conclusion that no prima facie case is made out for proceeding further in the matter. It is equally settled law that it is open to the Court, before issuing the process, to record the evidence, and on consideration of the averments made in the complaint and the evidence thus adduced, it is required to find out whether an

3 2007(1)MLJ(CrI)170



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offence has been made out. On finding that such an offence has been made out and after taking cognizance thereof, process would be issued to the respondent to take further steps in the matters."

"In the case of dismissal of the complaint under Section 203 of Criminal Procedure Code, the person accused of the offence need not be given the right of audience in revision proceedings, challenging the dismissal order. Somu alias Somasundaram and 3 others v. State and another 1985 L.W (CrL.) (25) and Sivasankar v. Santhakumar 1991(1) MWN (Cr.) 265 Mad.

10. On a perusal of the order impugned, I find that the learned Magistrate has over-reached and misdirected himself. He has to find out the availability of sufficient materials to substantiate a prima facie case but discussed about the prospects of the case, which is not required under law. It has been repeatedly held by the Supreme Court and this Hon'ble Court that such an exercise is deprecated. The question at the initial stage was not whether there was any truth in the allegation made in the complaint but the question was whether on the basis of the allegations prima facie case and an offence



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is made out. The truth or otherwise of the allegation made in the complaint would be examined at the time of the trial.”

20. Accordingly, this Court finds that the impugned order suffers from manifest illegality, misdirection of law, and non-application of mind. The learned Magistrate failed to exercise jurisdiction vested under Sections 200 and 190 Cr.P.C., 1973.

21. This Court, therefore, holds that the dismissal of the complaint by the learned Judicial Magistrate, Aranthangi, in CrI.M.P. No.3162 of 2022 is unsustainable in law.

22. In fine, the Criminal Revision Petition is allowed.

22.1. The order dated 29.06.2022 passed in CrI.M.P. No.3162 of 2022 on the file of the Judicial Magistrate, Aranthangi, is set aside.

22.2. The learned Judicial Magistrate, Aranthangi, is directed to take the complaint on file, proceed in accordance with law under Sections 200 and 202 Cr.P.C., 1973, record the statements of the



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complainant and witnesses, and thereafter decide whether process is to be issued to the respondents. The petitioner shall appear before the learned Judicial Magistrate, Aranthangi, on or before 03.12.2025 for further proceedings. No costs.

23. *Epilogue:*

The Constitution does not permit power without accountability. Allegations of custodial assault and abuse of authority demand prompt judicial attention, not procedural evasion. A citizen's grievance cannot be reduced to a mere civil dispute when the acts complained of, on their face, constitute offences under the Penal Code.

13.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

- 1.The Judicial Magistrate,
Aranthangi.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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