



Crl.R.C.(MD)No.789 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.08.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.789 of 2025

Yalini

... Petitioner

Vs.

1.State of Tamil Nadu rep. by
The Superintendent of Police,
Madurai,
Madurai District.

2.The Deputy Superintendent of Police,
Usilampatti,
Madurai District.

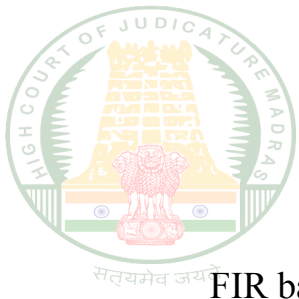
3.The Inspector of Police,
Usilampatti,
Madurai District.

4.Chadhiran

5.Tamilarasi

... Respondents

PRAYER : Criminal Revision Case filed under Section 438 r/w 442 B.N.S.S., to call for the entire records relating to the impugned order dated 23.04.2025 made in Cr.M.P.No.1016/2025 on the file of learned District Munsif cum Judicial Magistrate No.I, Usilampatti and set aside the same and consequently direct the 3rd respondent police to register a



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FIR based on the petitioner's complaint dated 20.02.2025.

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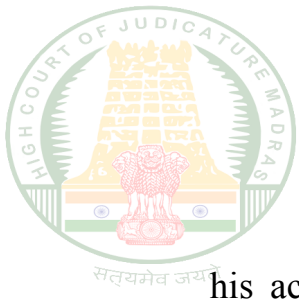
For Petitioner : Mr.J.Senthil Kumaraiah
For R1-R3 : Mr.S.S.Manoj
Government Advocate (Crl. Side)
For R4 & R5 : Mr.Hariharan
for Mr.G.Kasinathadurai

ORDER

Challenging the order passed by the District Munsif cum Judicial Magistrate No.I, Usilampatti in Crl.M.P.No.1016 of 2025, dated 23.04.2025, this revision case has been filed.

2. The petitioner filed a petition before the learned Judicial Magistrate under Section 156(3) of Cr.P.C r/w 175(3) of BNS. The learned Trial Court had dismissed the same and challenging the said order, this criminal revision case is filed.

3. The matter is all about the alleged fact that the petitioner had given a loan of Rs.10,00,000/- to the proposed accused, 4th and 5th respondents for the purpose of the marriage of 5th respondent's daughter. In this regard, cheque has also been issued by the 5th respondent drawn in



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his account of State Bank of India, Usilampatti Branch and thereafter defrauded the petitioner from repaying the said amount. In this regard, the petitioner already gave a complaint before the 3rd respondent police on 06.11.2024. Due to the inaction of the 3rd respondent Police, the petitioner filed a petition before this Court in W.P(MD)No.4235 of 2025 seeking to direct the 3rd respondent police to take appropriate action on the petitioner's complaint dated 06.11.2024 and conclude the inquiry on the file of the Deputy Superintendent of Police, Usilampatti. While the matter was dealt with by this Court, on the submission of the learned Additional Public Prosecutor, this Court closed the writ petition recording that the petitioner's complaint dated 06.11.2024 was considered by the 3rd respondent Police after an elaborate enquiry. The said complaint was closed and hence no further orders are required to be passed in the said case. Subsequent to the said case, the petitioner had made another complaint before the 3rd respondent police on 22.02.2025 to the 3rd respondent and also to the Deputy Superintendent of Police, Usilampatti and Superintendent of Police at Madurai by registered post. Despite the same inaction on the side of the said officials had prompted him to file a petition under Section 156(3) of Cr.P.C r/w 175(3) of BNS,



4. The learned counsel for the petitioner relying upon the case of ***Sangeetaben Mahendrabhai Patel Vs. State of Gujarat & Another*** reported in **2012 (7) SCC 621** submitted that a pending case which was filed under Section 138 of the Negotiable Instrument Act, 1881 will not preclude a victim who was defrauded to initiate criminal action against a deceiver for offences under sections 406 and 420 r/w section 114 of IPC. Further he pointed out that under the Negotiable Instrument Act, 1881 there is a legal presumption that the cheque had been issued for discharging the antecedent liability and that presumption can be rebutted only by the person who draws the cheque. Such a requirement is not there in the offences under IPC. Though there may be some overlapping of facts in both the cases, the ingredients of the offences are entirely different. Thus, the subsequent case is not barred by any of the statutory provision. He categorically contended that the pendency of a cheque case between the petitioner herein and the 4th and 5th respondents would not absolve his right from filing a petition under Section 156(3) of Cr.P.C r/w 175(3) of BNS, 2023 seeking to direct the 3rd respondent police to



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register an F.I.R as against the 4th and 5th respondents and he pointed out that the learned Trial Court had dismissed his application on the premise that a cheque case is already pending. Hence, he pressed for allowing the criminal revision case.

5. Per contra, the learned Government Advocate (Crl.Side) relying upon the order passed by this Court in W.P(MD)No.4235 of 2025, dated 18.02.2025 categorically contended that the contents of the complaint, dated 06.11.2024 and the complaint dated 22.02.2025 are exactly the same and the recent complaint is only the cut and copy version of the earlier complaint and in the circumstance where this Court has closed the writ petition recording the fact that an elaborate inquiry has already been conducted by the 3rd respondent police and a detailed report has also been filed before the Judicial Magistrate. An elaborate enquiry was also conducted and the earlier complaint was closed. In the instant case, on direction from the learned Trial Court to file a detailed report, a detailed report was also filed before the learned Judicial Magistrate after conducting prompt enquiry with the petitioner as well as the 4th and 5th respondents herein. It is only on the basis of the report of the 3rd



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respondent police, the learned Trial Court had proceeded to conclude that the pendency of the cheque case in the same matter and only by applying his mind in the report filed by the 3rd respondent police, the learned Trial Court had proceeded to dismiss the petition. He said that there is no infirmity in the impugned order and pressed for dismissal of the criminal revision case.

6. The learned counsel for the 4th and 5th respondents submitted that pending STC in S.T.C.No.652 of 2024 on the file of the District Munsif cum Judicial Magistrate (Fast Track Court) No.I, Usilampatti with respect to the same transaction, a fresh criminal complaint was also been sent through registered post by the petitioner to initiate criminal action against the 4th and 5th respondents. Such an exercise is illegal and the learned Trial Court had rightly dismissed the petition and pressed for dismissal of the criminal revision case.

7. Heard the learned counsel for the petitioner and the respondents and carefully perused the materials available on record.



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8. No doubt the transaction is all about a loan which has been availed by the 4th and 5th respondents to a tune of Rs.10,00,000/- by issuing a cheque and in this regard, case in S.T.C.No.652 of 2024 has also been promptly filed by the petitioner herein to prosecute the 4th and 5th respondents under Section 138 of the Negotiable Instrument Act, 1881 and it is all a transaction of money which had happened between the petitioner and the 4th and 5th respondents. Had there been an intention to defraud the petitioner, the 4th and 5th respondents would not have issued a cheque in favour of the petitioner. Under such circumstances, for the same transaction, I am of the considered opinion that a petition under Section 156(3) of Cr.P.C r/w 175(3) of BNS, 2023 seeking to direct the 3rd respondent police to initiate criminal action against the 4th and 5th respondents is impermissible and I do not find any infirmity in the order passed by the learned Trial Court.

9. Therefore, this Criminal Revision Case is dismissed.

22.08.2025

NCC : Yes / No
Index : Yes / No



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Internet : Yes / No

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To

- 1.The District Munsif cum Judicial Magistrate No.I,
Usilampatti.
- 2.The Superintendent of Police,
Madurai,
Madurai District.
- 3.The Deputy Superintendent of Police,
Usilampatti,
Madurai District.
- 4.The Inspector of Police,
Usilampatti,
Madurai District.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

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Order made in
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