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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.1037 of 2025

Karunakaran ... Petitioner/ Petitioner

Vs.

1.State of Tamilnadu,
Rep. by the Sub Inspector of Police,
Sivakasi Town Police Station,
Sivakasi.

2.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

3.Parameswaran ... Respondents / Respondents

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records pertaining to the order passed in Crl.M.P.No.247 of 2024 on the file of the learned Judicial Magistrate No.1, Sivakasi, dated 26.05.2025, and to set aside the same and further directing the 1st respondent to register the First Information Report based on the complaint lodged by the petitioner.

For Petitioner : Mr.P.T.Ramesh Raja

For R-1 & R-2 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)

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ORDER

Mr.M.Sakthi Kumar, learned Government Advocate (Crl. Side) takes notice for the respondents 1 and 2.

2. Considering the limited scope of the relief sought for, notice to the 3rd respondent is dispensed with.

3. Challenging the order passed by the learned Judicial Magistrate No. 1, Sivakasi, in Crl.M.P.No.247 of 2024, dated 26.05.2025, this Criminal Revision case is filed.

4. The petitioner is the petitioner before the learned Judicial Magistrate No.1, Sivakasi, who had filed an application under Section 156(3) of Cr.P.C., 1973, seeking to direct the 1st respondent police to register a First Information Report based on the complaint enclosed in the petition.

5. The crux of the complaint is that the third respondent had entered into an agreement for sale with the petitioner on receipt of Rs.5,00,000/- as advance with respect to a property comprised in 98.46 square meters, 48 square meters, 40 square meters and another 40 square meters comprised

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in survey No. 303/3 of Aanaiyur village, Sivakasi Taluk, for a total consideration of Rs.16,20,000/-. The petitioner had paid an advance amount of Rs.5,00,000/-, and after execution of the same, the petitioner came to know that the third respondent is not the owner in title and possession of the said property.

6. As a result of which, feeling deceived, he made a complaint before the 1st respondent police, for which the 1st respondent police did not even make-up their mind to issue a CSR, against which, the petitioner made an application before the Superintendent of Police, Virudhunagar. On inaction from the 1st and 2nd respondents, he had filed an application before the learned Judicial Magistrate under Section 156(3) of the Code of Criminal Procedure, 1973, requiring the learned Judicial Magistrate to direct the 1st respondent police to register a FIR as against the third respondent. The learned Judicial Judicial Magistrate had promptly directed the 1st respondent police to conduct a preliminary enquiry and submit a report.

7. On compliance, the 1st respondent police had duly conducted a preliminary enquiry and had submitted a report which was taken on record by the learned Judicial Magistrate. The learned Judicial Magistrate had applied his mind and had perused the police report which revealed that the

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dispute between the petitioner and the third respondent amicably resolved out of the police station and a compromise agreement was arrived at, in which, the petitioner agreed to withdraw the present petition in the light of the said compromise, in which an amount of Rs.2,30,000/- was given back by the 3rd respondent to the petitioner and after submission of the police report before the learned Judicial Magistrate, the petitioner had filed an additional document statement stating that the compromise has been withdrawn.

8. The learned Trial Court further observed that including the complaints sent by post to the Station House Officer, the grievance of the petitioner had arisen out of a sale agreement entered into with the third respondent and after having received an advance payment, the 3rd respondent allegedly, failed to honor the agreement and did not refund the said amount. The learned Trial Court considered the same as a dispute which is purely civil in nature for which the appropriate remedy would be available before a Civil Court for recovery of amount or for specific performance of sale agreement and it is not permissible to convert a civil dispute into a criminal proceeding merely by alleging non fulfillment of contractual obligations. Challenging the same, this Criminal Revision case is filed.

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9. The learned counsel for the petitioner categorically submitted that the petitioner was badly deceived by the 3rd respondent by entering into an agreement for sale with respect to a property to which he is not at all an owner. However, this Court is of the considered view that this petitioner ought not to have entered into an agreement for sale with a person with respect to a property which do not stand in the name of the executor of the agreement. The fundamental principle of law relating to transfer of immovable property is *caveat emptor*. A buyer of the property is required to be careful in not purchasing certain properties which are already encumbered or from person who does not have title. It is the duty of any citizen who is entering into an agreement for sale to avail an encumbrance certificate with respect to the proposed property to be sold off and verify the title of the property and thereafter entered into an agreement for sale.

10. Ignorance of law is no excuse and hence, having rightly observed by the learned Trial Court, I am of the considered view that a civil dispute cannot give way for initiation of criminal action against the third respondent.

11. Accordingly, giving liberty to the petitioner to workout his appropriate remedy before the appropriate Civil Forums, this Criminal

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Revision case fails and the same is dismissed. No costs.

12.08.2025

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

To

1.The Judicial Magistrate No.1,
Sivakasi.

2.The Sub Inspector of
Police,
Sivakasi Town Police Station,
Sivakasi.

3.The Superintendent of Police,
Virudhunagar District,
Virudhunagar.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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L.VICTORIA GOWRI, J.,

Sml

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