



*Crl.R.C.(MD)No.971 of 2024*

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 07.04.2025

Delivered on : 04.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR**

Crl.R.C.(MD)No.971 of 2024

P.Nallammal

... Petitioner

Vs.

1.V.Bose

2.V.Thangaraj

3.V.Munisamy

4.T.Pradeep Gowtham

5.State rep.by the Inspector of Police,  
Melur Police Station, Melur.  
Madurai District.

... Respondents

(R5 impleaded as per order of the Court, dated 22.10.2024  
in Crl.MP(MD)No.11189 of 2024 in Crl.RC(MD)No.971/2024)

**PRAYER :** Criminal Revision Petition filed under Section 438 r/w 442 of BNSS., to call for the records and set aside the order passed in Cr.M.P.No.5028 of 2023 by the learned Judicial Magistrate, Melur, dated 25.06.2024.



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For Petitioner : Mr.Niranjan S.Kumar.

For Respondents : Mr.M.Jegadeesh Pandian, for R1 to R4.

: Mrs.M.Aasha,  
Government Advocate (Criminal Side)  
for R5.

### **ORDER**

The Criminal Revision is directed against the order passed in Cr.M.P.No.5028 of 2023, dated 25.06.2024 on the file of the Court of the learned Judicial Magistrate, Melur, dismissing the petition filed under Section 156(3) of Code of Criminal Procedure.

2. The case of the petitioner/defacto complainant is that the respondents 1 to 3 are her own brothers and the fourth respondent is the son of the second respondent; that the petitioner's younger son Rajkumar married the second respondent's daughter Chandra; that the said Rajkumar filed a divorce petition against the said Chandra in H.M.O.P.No.59 of 2023 and the same is pending on the file of the Sub Court, Melur; that the said Chandra filed DVC case against the petitioner's family in D.V.C.No.1 of 2022 and the same is pending on the



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file of the Court of the Judicial Magistrate, Melur; that the petitioner has purchased lands at Kallampatti Village, Melur Taluk vide registered sale deed; that on 02.03.2023 at about 08.00 am, the petitioner visited her lands and directed her son Rajkumar to bring a mechanic to repair the motor pump set ; that the respondents/accused had assembled unlawfully, trespassed into the petitioner's land, abused the petitioner in filthy language, threatened her to transfer all her property in the name of her daughter-in-law Chandra or else they would not allow the petitioner and her son to enter into the property; that when the petitioner had questioned their claim of transferring the property into the said Chandra, they had threatened and directed the petitioner to transfer the property and to withdraw the case or else they would face dire consequences; that the petitioner had dialed 100, seeking the help of police and also sent a complaint through online, for which, the petitioner received a SMS (message) from the police stating that 'necessary action sent'; that the petitioner has then lodged a police complaint on 03.03.2023 before the Inspector of Police, Melur Police Station, for which CSR came to be received; that since there was no action, the petitioner was forced to send a complaint to the District Superintendent of Police, Madurai through



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registered post, dated 03.03.2023 and the same was received on 06.03.2023 and that since there was no action at all, the petitioner was constrained to file the above petition under Section 156(3) of Cr.P.C., for registration of FIR and for investigation.

3.The learned Judicial Magistrate, taking the petition filed under Section 156(3) Cr.P.C. on file in Cr.M.P.No.5028 of 2023 and upon perusing the petition, affidavit and on hearing the petitioner's side, has passed the impugned order, dated 25.06.2024 by holding that the dispute is of civil in nature, dismissed the petition. Challenging the dismissal order, the present Criminal Revision came to be filed.

4. Before entering into further discussion, it is necessary to refer the judgment of the Hon'ble Supreme Court in ***M/S Indian Oil Corporation vs M/S NEPC India Ltd., and Others, in Crl.A.No.834 of 2002, dated 20.07.2002***, wherein, the Hon'ble Apex Court has *deprecat*ed the practice of attempting to settle the civil disputes by applying pressure through criminal prosecution and the relevant passage is extracted hereunder:



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*“10. While on this issue, it is necessary to take notice of a growing tendency in business circles to convert purely civil disputes into criminal cases. This is obviously on account of a prevalent impression that civil law remedies are time consuming and do not adequately protect the interests of lenders/creditors. Such a tendency is seen in several family disputes also, leading to irretrievable break down of marriages/families. There is also an impression that if a person could somehow be entangled in a criminal prosecution, there is a likelihood of imminent settlement. Any effort to settle civil disputes and claims, which do not involve any criminal offence, by applying pressure though criminal prosecution should be deprecated and discouraged. In G. Sagar Suri vs. State of UP [2000 (2) SCC 636], this Court observed :*

*"It is to be seen if a matter, which is essentially of civil nature, has been given a cloak of criminal offence. Criminal proceedings are not a short cut of other remedies available in law. Before issuing process a criminal court has to exercise a great deal of caution. For the accused it is a serious matter. This Court has laid certain principles on the basis of which High Court is to exercise*



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*its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of any court or otherwise to secure the ends of justice."*

*While no one with a legitimate cause or grievance should be prevented from seeking remedies available in criminal law, a complainant who initiates or persists with a prosecution, being fully aware that the criminal proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary prosecutions and harassment of innocent parties, is to exercise their power under section 250 Cr.P.C. more frequently, where they discern malice or frivolousness or ulterior motives on the part of the complainant. Be that as it may."*

**5. In *Mitesh Kumar J Sha vs The State Of Karnataka* (Crl.A.No. 1285 of 2021, dated 26.10.2021), the Hon'ble Supreme Court has reiterated that cloaking a civil dispute with a criminal nature in order to get quicker relief is an abuse of process of law which must be**



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discouraged. Bearing the above legal position on mind, let us consider the case on hand.

6. It is not in dispute that the petitioner has earlier filed a petition under Section 156(3) of Cr.P.C., against the very same respondents in Crl.M.P.No.1100 of 2023 and the learned Magistrate, by observing that since the petitioner has not produced any material to show that a complaint was lodged before the jurisdictional of Police, entertained a serious doubt as to whether the complaint was lodged with the police, dismissed the petition vide order, dated 04.09.2023.

7.It is further evident that the petitioner has thereafter filed a similar petition under Section 156(3) Cr.P.C., by enclosing the copies of complaints and the CSR and the same came to be taken on file in Cr.M.P.No.5028 of 2023.

8. It is pertinent to mention that the respondents 1 to 3 are own brothers of the petitioner; that the fourth respondent is the son of the second respondent and that the petitioner's son Rajkumar had married the



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second respondent's daughter Chandra. It is not in dispute that the petitioner's son Rajkumar has already filed a divorce petition in H.M.O.P.No.59 of 2023, seeking divorce against the said Chandra and the same is pending on the file of the Sub Court, Melur. It is also not in dispute that the second respondent's daughter Chandra has initiated proceeding under the Domestic Violence Act in D.V.C.No.1 of 2022 and the same is pending on the file of the Court of the Judicial Magistrate, Melur.

9.The main complaint of the petitioner is that due to the matrimonial disputes between her son and brother's daughter, they were not in cordial terms and that the respondents taking advantage of the pending cases, had been threatening the petitioner to transfer the immovable property in favour of the second respondent's daughter Chandra and also to withdraw the pending case.

10. As already pointed out, it is the specific contention of the petitioner that on 02.03.2023 at about 08.00 am, when she was in agricultural land, the respondents trespassed into the said land and



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abused the petitioner in filthy language and threatened her to transfer her properties to the second respondent's daughter and to withdraw the case and that when the same was questioned, they have threatened and directed the petitioner to transfer the property within a week and also to withdraw the case or else they will put to dire consequences.

11. The learned counsel appearing for the petitioner would submit that since the complaint given by the petitioner discloses cognizable offence, the learned Magistrate should have directed the jurisdictional Police to register a criminal case and thereafter, to proceed with the investigation, but the learned Magistrate travelled beyond the assumption as though there is civil dispute, but there is no civil dispute between the petitioner and the respondent before any Court; that the Magistrate failed to consider that enquiry shall not be conducted without registration of FIR, when cognizable offences are made out in the complaint, but in the present case mandatory procedure has been flouted; that the petitioner has specifically alleged that she was threatened with dire consequences to settle the property stands in her name in favour of the second respondent's daughter and that the same would only attract the offence of



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extortion of putting any person in fear of grievous hurt or death and that the learned Magistrate has also failed to consider that the property in which, the incident was occurred belongs to the petitioner and that the respondents had illegally trespassed into the petitioner's property and caused criminal intimidation.

12. The learned counsel for the petitioner would submit that the Sub Court, Melur, has already granted divorce in H.M.O.P.No.59 of 2023 in favour of the petitioner's son vide order, dated 04.03.2024 and that the third respondent has filed a suit against the petitioner and her two sons claiming permanent injunction restraining them from evicting the plaintiff from the suit property other than due process of law and the same is pending in O.S.No.29 of 2024 on the file of the District Munsif Court, Melur. He would further submit that the petitioner has already filed a civil suit against the respondents for partition and the same is pending in O.S.No.288 of 2023 on the file of the District Court, Madurai.

13.Considering the petitioner's affidavit and other materials, this Court has no hesitation in holding that the petitioner is attempting to



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cloak a civil dispute with a criminal nature and as rightly observed by the learned Magistrate, the alleged dispute between the parties is absolutely civil in nature.

14. The learned counsel for the petitioner would further contend that since the petitioner's complaint discloses commission of cognizable offence, as per the dictum laid down by the Hon'ble Supreme Court in ***Lalita Kuamari Vs. State of Uttar Pradesh and others*** reported in ***(2014) 2 SCC 1***, the learned Judicial Magistrate is duty bound to forward the complaint to the concerned police for registration of FIR and they have no power or jurisdiction to dismiss the same by themselves. No doubt, the Hon'ble Supreme Court in ***Lalita Kuamari*** 's case has concluded thus :

*“ i) Registration of FIR is mandatory under Section 154 of the Code, if the information discloses commission of a cognizable offence and no preliminary inquiry is permissible in such a situation.*

*ii) If the information received does not disclose a cognizable offence but indicates the necessity for an inquiry, a preliminary inquiry may be conducted only to ascertain whether cognizable offence is disclosed or not.*



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*iii) If the inquiry discloses the commission of a cognizable offence, the FIR must be registered. In cases where preliminary inquiry ends in closing the complaint, a copy of the entry of such closure must be supplied to the first informant forthwith and not later than one week. It must disclose reasons in brief for closing the complaint and not proceeding further.*

*iv) The police officer cannot avoid his duty of registering offence if cognizable offence is disclosed. Action must be taken against erring officers who do not register the FIR if information received by him discloses a cognizable offence.”*

15. The learned counsel for the petitioner would contend that in the present case, the learned Magistrate has not even chosen to forward the complaint to the jurisdictional police even for enquiry, but on the other hand, the learned Magistrate, considering the averments in the complaint has come to a decision that there is no scope for proceeding further.

16. It is pertinent to note that the complainant does not have an unqualified right to demand a police investigation in all circumstances



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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.

17. It is settled law that the Judicial Magistrates, while exercising power under Section 156(3) Cr.P.C., cannot act as a post office and he 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 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.



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18. In the present case, as already pointed out, the petitioner dialed 100 and sought police help on the alleged date of occurrence i.e., on 02.03.2023 itself and also lodged a complaint before the Melur Police Station on 03.03.2023. It is the further case of the petitioner that since there was no action, the petitioner was constrained to send a complaint to the District Superintendent of Police, Madurai through registered post on 03.03.2023.

19. Considering the above, it is very much clear that the petitioner after lodging the complaint before the police on 03.03.2023, in addition to dial 100 seeking police help on 02.03.2023, without giving breathing time to the jurisdictional police to act, sent a complaint to the District Superintendent of Police on 03.03.2023 simultaneously.

20. The Hon'ble Supreme Court in the case of ***Ranjit Singh Bath & another Vs. Union Territory Chandigarh & another***, reported in ***2025 LiveLaw SC 329***, has reiterated the position that a Magistrate can only direct the registration of an FIR under Section 156(3) of the Cr.P.C.,



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after the complainant has first exhausted the remedies available under Sections 154(1) and 154(3) of Cr.P.C. The complainant at the first instance must report to the jurisdictional police under Section 154(1) of Cr.P.C., and if the jurisdictional police refuses to register the complaint, then only the complainant has to send a written complaint to the District Superintendent of Police and in case, if the Superintendent of Police refuses to take action, then the complainant can invoke Section 156(3) Cr.P.C., and approach the jurisdictional Magistrate Court.

21. In the present case, as already pointed out, the complainant without giving any breathing time for jurisdictional police to act, sent a complaint to the Superintendent of Police simultaneously and as such, it cannot be stated that the petitioner has complied with the mandatory requirements as contemplated under Section 154(1) and 154(3) of Cr.P.C.

22. Viewing from any angle, the impugned order of the learned Magistrate in dismissing the petition filed under Section 156(3) of Cr.P.C., cannot be found fault with. Consequently, this Court concludes



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that the Criminal Revision is devoid of merits and the same is liable to be dismissed.

23. In the result, the Criminal Revision Case is dismissed.

**04.08.2025**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
das

To

1. The Judicial Magistrate, Melur.
2. The Inspector of Police,  
Melur Police Station, Melur.  
Madurai District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

das

Pre-delivery order made in  
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Dated: 04.08.2025