



Crl.R.C.(MD)No.549 of 2019

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Reserved on : 17.03.2025

Pronounced on : 30.04.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

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1.P.Sethuraman (Died)

2.Pushpam

3.S.Vetriselvi

4.S.Kalaivani

5.S.Kalaivannan

6.S.Tamilvanan

... Petitioners

*(P2 to P6 are substituted as per order of the Court dated
18.02.2025 in Crl.MP(MD)No.2104 of 2025 in Crl.RC
(MD)No.549 of 2019)*

Vs.

1.M/s.Muthoot Finance Private Ltd.,
represented by its Managing Director
Divisional Office, Nirmal Plaza Complex,
Alagarkovil Road, K.Pudur,
Madurai.



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2.The Managing Director,
M/s.Muthoot Finance Private Ltd.,
Divisional Office, Nirmal Plaza Complex,
Alagarkovil Road, K.Pudur,
Madurai.

3.The Branch Manager,
M/s.Muthoot Finance Private Ltd.,
392/339, North Masi Street,
Madurai.
(R1 and R2 dispensed with)

... Respondents

Prayer : This Criminal Revision Case filed under Section 397 and 401 Cr.P.C., to call for the records and set aside the order passed in Cr.M.P.No. 1257 of 2016 on the file of the Chief Judicial Magistrate Court, Madurai dated 12.09.2017 and allow this criminal revision petition.

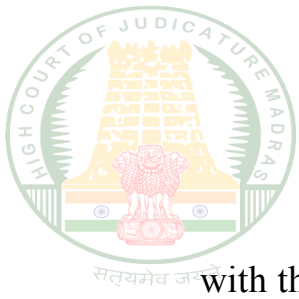
For Petitioners : Mr.H.Velavadhas

For R3 : Mr.K.R.Laxman

ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.1257 of 2016 dated 12.09.2017 on the file of the Court of the Chief Judicial Magistrate, Madurai, dismissing the complaint under Section 203 Cr.P.C.

2. The case of the first petitioner deceased Sethuraman is that the first petitioner pledged his gold jewels weighing 57 grams on 21.06.2004



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with the first respondent company and obtained a loan of Rs.25,000/-, that the first petitioner again pledged his gold jewels weighing 61 grams with the first respondent company on 22.06.2004 and obtained a loan of Rs.25,000/-, that though the first respondent company had advertised for giving gold loan for interest at 15% per annum, they have charged exorbitant interest rate at 36%, that the first respondent company sent an auction notice dated 20.12.2006 directing the first petitioner to redeem his jewels or else, the same will be auctioned, that though the first petitioner sent legal notices seeking clarification about the interest rate and non-mentioning of interest in the auction notice, the first respondent company, without sending any reply, auctioned the jewels without the knowledge of the first petitioner and that the first respondent company has committed the offences under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003 and also for the offences under Sections 406, 409, 417 and 420 IPC.

3. It is further case of the first petitioner that the first petitioner presented a complaint with the Economic Offences Wing Police but since there was no action, the first petitioner lodged a complaint with the



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Commissioner of Police, Madurai and since there was no action, the first petitioner was forced to file a petition in Crl.O.P.No.3422 of 2008 seeking direction to register the complaint given by the first petitioner to the police authorities, that this Court vide order dated 09.04.2008 directed the Inspector of Police, Economic Offences Wing-II, Madurai to register a case and file a report, that the said police had conducted an enquiry and filed a report as 'further action dropped' on 19.10.2009 on the ground that auction has already been concluded on 24.08.2006 itself, that the first petitioner has then filed a private complaint before the Court of the Chief Judicial Magistrate, Madurai in Crl.M.P.No.1257 of 2016, that the learned Chief Judicial Magistrate has passed the impugned order dated 12.09.2017 dismissing the complaint under Section 203 Cr.P.C. and that therefore the first petitioner was constrained to file the present revision.

4. The petitioners' main contention is that the first respondent company demanded exorbitant interest at 36% without intimating the rate at the time of pledging the gold jewels and auctioned the jewels without the first petitioner's knowledge. According to the petitioners, the first petitioner pledged his jewels twice, obtaining a total loan of Rs.50,000/-



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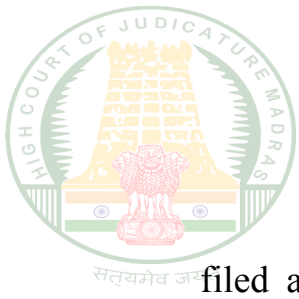
agreeing to pay interest and redeem the jewels within the stipulated time.

The Chief Judicial Magistrate, by observing that the alleged auction and excessive interest claims would amount to a breach of contract and as such, the petitioners should approach the civil Court to claim relief based on the contract between the parties, dismissed the complaint.

5. As rightly contended by the learned counsel appearing for the third respondent, the auction in question has already been concluded as early as on 24.08.2006 and the present private complaint came to be filed on 24.10.2016 after the lapse of more than 10 years and that since the petitioners' right to initiate civil proceedings got already expired, they have been attempting to give a civil dispute/contractual dispute a criminal color.

6. It is pertinent to note that the petitioners themselves have produced the copy of the order passed in Crl.R.C.(MD)No.747 of 2011 dated 23.07.2013 by this Court.

7. It is evident from the records that the first petitioner has earlier



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filed a private complaint against the first respondent company and the concerned Economic Offences Wing police and the same was taken on file in Crl.M.P.No.278 of 2011 and that the learned Chief Judicial Magistrate, after enquiry, has passed an order dated 17.05.2011 dismissing the private complaint. Challenging the said dismissal order, the first petitioner has filed a revision in Crl.R.C.(MD)No.747 of 2011 and this Court disposed of the same vide order dated 23.07.2013 and the relevant passages in the said order are extracted hereunder for better appreciation;

“6. According to the appellant even though he has pledged the jewels on 21.06.2004 and 22.06.2004, he has been paying the interest regularly. Since the second respondent has violated his terms and conditions, he has issued Lawyer Notices on 21.08.2006 and 18.01.2007. However, the seal affixed in the acknowledgment is not clear. According to the respondents, on 24.08.2006 itself, auction has been conducted and concluded. In this connection, the private auctioneer has also been examined by the Inspector of Police. Of course, the complainant without making any payment, even after the receipt of auction notice, dated 13.01.2005 and 20.12.2006, has kept quiet. In the said auction notice, it is clearly stated the jewels will be auctioned on the said date, if the complainant fails to repay the loan amount. Even



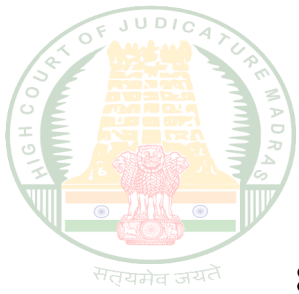
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thereafter, he has not made any attempt to repay the loan amount due to the second respondent Bank. His contention is that the rate of interest has not been mentioned in the demand notice and only principal alone has been mentioned. Therefore, he had made a correspondence with the respondent Company without making any payment.

7. In any event, I am of the view that he could have made the payment atleast thereafter and filed an appropriate application before an appropriate forum for not auctioning those items. But, the appellant has failed to do so. Further, in order to show his bona fide, atleast, he could have made the payment in the manner known to law. However, he has not done so. Under such circumstances, I am of the view that these are the matters has to be decided only either before the civil Court or before the Consumer Forum. This Court is concerned about any violation has been committed by the second respondent Company or not. It is stated that the appellant has filed an appropriate application before the Consumer Forum, which is pending. If so, the issue of rate of interest can be decided at a later point of time, by this Court. If the appellant feels that after the disposal of the application pending before the Consumer Forum, still, he wanted to pursue this matter again, he can always to do so, within a period of six months from the date of receipt of the copy of the order of the Consumer Forum.”



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8. As already pointed out, in the said order, pendency of the consumer complaint was referred to, but the petitioners have not furnished any particulars with regard to the disposal of the consumer complaint. Though this Court has given liberty, in case even after the disposal of the consumer complaint, he wanted to pursue the matter again, he can approach this Court within a period of six months from the date of receipt of the copy of the order of the consumer forum, it is not the case of the petitioners that they approached this Court again in pursuance of the direction above referred.

9. Considering the entire facts, circumstances, and the earlier order passed by this Court in Crl.R.C.(MD)No.747 of 2011, the filing of the second complaint with identical allegations, specifically for enforcing the contract between the parties, amounts to an abuse of process of law and hence the order of the learned Chief Judicial Magistrate, dismissing the complaint under Section 203 Cr.P.C., cannot be found fault with. Consequently, this Court concludes that the revision lacks merit and is liable to be dismissed.



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10. In the result, this Criminal Revision case stands dismissed. No costs.

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30.04.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Chief Judicial Magistrate,
Madurai.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.549 of 2019

Dated : 30.04.2025