



CRL RC(MD)Nos.1092 and 1272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 25.08.2025

PRONOUNCED ON : 31.10.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)Nos.1092 and 1272 of 2023

and

CRL MP(MD)Nos.14032 of 2023 and 16204 of 2023

CRL RC(MD)No.1092 of 2023:

Packiam

... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by the Sub Inspector of Police,
Thirunagar Police Station,
Madurai District.
(In crime No.442 of 2016)

2.M.G.Manikandan

... Respondents

(R-2 is suo-motu impleaded as per order of the Court dated 18.04.2024 in CRL RC(MD)No.1092 of 2023)

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., 1973, to call for records and to set aside the order passed in Cr.M.P.No.2178/2023 dated 11.07.2023 in C.C.No.938 of 2020 on the file of the learned Judicial Magistrate Court No.VI, Madurai, Madurai District, and allow this Criminal Revision case.



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For Petitioner : Mr.M.Karuppasamy Pandian,
For Mr.R.Balamuruganantham

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate

For R-2 : Mr.G.R.Hari,
For Mr.M.Dinesh

CRL RC(MD)No.1272 of 2023:

Usha ... Petitioner

Vs.

1.The State of Tamilnadu,
Rep. by the Sub Inspector of Police,
Thirunagar Police Station,
Madurai District.
(In crime No.442 of 2016)

2.M.G.Manikandan ... Respondents

*(R-2 is suo-motu impleaded as per order of the Court dated
18.04.2024 in CRL RC(MD)No.1272 of 2023)*

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., 1973, to set aside the order passed in Cr.M.P.No.5802/2023 dated 24.08.2023 in C.C.No.938 of 2020 on the file of the learned Judicial Magistrate Court No.VI, Madurai, Madurai District, and allow this Criminal Revision case.

For Petitioner : Mr.Karunanidhi,
For Mr.R.Balamuruganantham

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate

For R-2 : Mr.G.R.Hari,
For Mr.M.Dinesh



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COMMON ORDER

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These Criminal Revision Cases are directed against the orders of the learned Judicial Magistrate No.VI, Madurai, in CrI.M.P. No.2178 of 2023 dated 11.07.2023 (filed by A3) and CrI.M.P. No.5802 of 2023 dated 24.08.2023 (filed by A2) in C.C. No.938 of 2020, whereby the petitions for discharge under Section 239 Cr.P.C., 2023, were dismissed.

2. Case Background:

The prosecution case is that A1 to A3 borrowed Rs.12,70,200/- (Rupees Twelve Lakhs Seventy Thousand and Two Hundred only) from the *de facto* complainant, repaid Rs.2,80,000/- (Rupees Two Lakhs and Eighty Thousand only), executed a writing on Rs.100/- (Rupees Hundred only) stamp paper for Rs.11,80,000/- (Rupees Eleven Lakhs and Eighty Thousand only), but failed to repay the balance of Rs. 9,80,200/- (Rupees Nine Lakhs Eighty Thousand and Two Hundred only). It is further alleged that when repayment was sought, the accused threatened the complainant. Thus, offences under Sections 420 and 506(i) of IPC were alleged. A2 and A3 moved discharge petitions contending that the materials on record did not disclose the essential



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ingredients of either offence. The learned Magistrate dismissed both petitions. Hence, these revisions.

3. **Petitioners' Contentions:**

Learned counsel for the petitioners contended:

Contradictions exist between the FIR and the final report, especially on the place of occurrence and rough sketch, vitiating the prosecution version. The transactions were at best civil/commercial in nature. Money transfers are admitted, but there was no dishonest inducement at inception; hence, Section 420 IPC is not attracted. Reliance was placed on **Lalit Chaturvedi v. State of U.P.**,¹, which held that civil disputes cannot be criminalised absent dishonest intention at inception. It was further propounded that, Section 506 IPC is not made out, since the FIR is silent on date, time, and particulars of threats; the complaint was lodged after five months' delay; vague oral threats cannot constitute criminal intimidation. Reliance was placed on **Manik Taneja v. State of Karnataka**², **Ramesh Kanna v. Inspector of Police, 2024**³, and **Noble Mohandoss v. State**⁴, for the proposition, the alleged "promissory note" is invalid/ fabricated no date/month, only one

12024 (1) Crimes 84 (SC)

2(2015) 1 MWN (Cr.) 361 (SC)

4/23



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signature, incomplete witnesses, and inconsistent recitals. A2 was only a salaried nurse, A3 a 60+ housewife; neither had any role in borrowals. They are implicated solely to exert pressure. It was further submitted that as per **M.E. Shivalingamurthy v. CBI**⁵, and **P. Vijayan v. State of Kerala**⁶, if even accepting prosecution materials no offence is made out, discharge must follow. The trial Judge erred in acting mechanically without testing whether the allegations created only suspicion or grave suspicion.

4. **Respondent's Contentions:**

Learned counsel for the *de facto* complainant and the prosecution opposed the revisions, submitting:

At discharge stage, the Court must accept prosecution materials as true and only see if they raise grave suspicion. Bank records show transfers of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) into A2's account. The writing acknowledging Rs.11,80,000/- (Rupees

3(1) MWN (Cr.) 153

4 1988 (2) MWN (Cr.) 184

5 (2020) 2 SCC 768

6 (2010) 2 SCC 398



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Eleven Lakhs and Eighty Thousand only) liability evidences dishonest inducement. Whether the amounts were repaid or not is a matter for trial, not discharge. Reliance was placed on **Rajesh Bajaj v. State (NCT of Delhi)**⁷, holding that cheating can arise even from commercial transactions; **Preeti Saraf v. State (NCT of Delhi)**⁸, that civil remedies do not oust criminal liability; and **Delhi Race Club (1940) Ltd. v. State of U.P.**⁹, distinguishing breach of contract from cheating.

5. **Legal Principles:**

The law on discharge under Sections 227/239 Cr.P.C., 1973, is settled and the Hon' ble Supreme Court in the case of **Sajjan Kumar vs Central Bureau of Investigation**¹⁰ has held as follows:

“21. On consideration of the authorities about the scope of Section 227 and 228 of the Code, the following principles emerge:

(i) The Judge while considering the question of framing the charges under Section 227 of the Cr.P.C. has the undoubted

⁷ (1999) 3 SCC 259

⁸ (2021) 16 SCC 142

⁹ (2024) 10 SCC 690

¹⁰ 2010(9)SCC 368



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power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out. The test to determine prima facie case would depend upon the facts of each case.

ii) Where the materials placed before the Court disclose grave suspicion against the accused which has not been properly explained, the Court will be fully justified in framing a charge and proceeding with the trial.

iii) The Court cannot act merely as a Post Office or a mouthpiece of the prosecution but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court, any basic infirmities etc. However, at this stage, there cannot be a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial.

iv) If on the basis of the material on record, the Court could form an opinion that the accused might have committed offence, it can frame the charge, though for conviction the conclusion is required to be proved beyond reasonable doubt that the accused has committed the offence.

v) At the time of framing of the charges, the probative value of the material on record cannot be gone into but before framing a charge the Court must apply its judicial mind on the



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material placed on record and must be satisfied that the commission of offence by the accused was possible.

vi) At the stage of Sections 227 and 228, the Court is required to evaluate the material and documents on record with a view to find out if the facts emerging therefrom taken at their face value discloses the existence of all the ingredients constituting the alleged offence. For this limited purpose, sift the evidence as it cannot be expected even at that initial stage to accept all that the prosecution states as gospel truth even if it is opposed to common sense or the broad probabilities of the case.

vii) If two views are possible and one of them gives rise to suspicion only, as distinguished from grave suspicion, the trial Judge will be empowered to discharge the accused and at this stage, he is not to see whether the trial will end in conviction or acquittal.”

6. The Court is not a post office, but may sift materials to see if a *prima facie* case exists. The Hon'ble Supreme Court in the case of **M.E. Shivalingamurthy vs. Central Bureau of Investigation**¹¹ has held as follows:-

“17. This is an area covered by a large body of case law.

¹¹ (2020) 2 SCC 768



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We refer to a recent judgment which has referred to the earlier decisions, viz., P. Vijayan v. State of Kerala and another and discern the following principles:

17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the Trial Judge would be empowered to discharge the accused.

17.2. The Trial Judge is not a mere Post Office to frame the charge at the instance of the prosecution.

17.3. The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the Police or the documents produced before the Court.

17.4. If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, “cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial”.

17.5. It is open to the accused to explain away the materials giving rise to the grave suspicion.

17.6. The court has to consider the broad probabilities, the total effect of the evidence and the documents produced



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before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

17.7. At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

17.8. There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

28. It is here that again it becomes necessary that we remind ourselves of the contours of the jurisdiction under Section 227 of the Cr.PC. The principle established is to take the materials produced by the prosecution, both in the form of oral statements and also documentary material, and act upon it without it been subjected to questioning through cross-examination and everything assumed in favour of the prosecution, if a scenario emerges where no offence, as alleged, is made out against the accused, it, undoubtedly, would enure to the benefit of the accused warranting the Trial Court to discharge the accused.”



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7. If two views are possible and one gives rise to only suspicion (not grave suspicion), discharge is warranted. Defence documents cannot be relied upon at the stage of discharge. The Hon'ble Apex Court has dealt with this proposition in the case of **State of Gujarat v. Dilip Singh**¹², and the relevant paragraphs 12&13 are extracted as follows:

“12. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged. The expression "the record of the case" used in Section 227 CrPC is to be understood as the documents and articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. The submission of the accused is to be confined to the material produced by the investigating agency.

13. The primary consideration at the stage of framing of charge is the test of existence of a prima facie case, and at this stage, the probative value of materials on record need not be gone into. This Court by referring to its earlier decisions in State of Maharashtra v. Som Nath Thapa and State of M.P. v. Mohanlal Soni has held the nature of evaluation to be made by the court at the stage of framing of the charge is to test the existence of prima facie case. It is also held at the stage of framing of charge, the court has to form a presumptive opinion to the existence of factual

¹² (2023) 17 SCC 688



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ingredients constituting the offence alleged and it is not expected to go deep into probative value of the material on record and to check whether the material on record would certainly lead to conviction at the conclusion of trial.”

8. Cheating requires dishonest intention at inception. The proposition has been dealt by the Hon’ ble Apex Court in the case of **Delhi Race Club**¹³ and the relevant para is extracted as follows:.

“41. The distinction between mere breach of contract and the offence of criminal breach of trust and cheating is a fine one. In case of cheating, the intention of the accused at the time of inducement should be looked into which may be judged by a subsequent conduct, but for this, the subsequent conduct is not the sole test. Mere breach of contract cannot give rise to a criminal prosecution for cheating unless fraudulent or dishonest intention is shown right from the beginning of the transaction i.e. the time when the offence is said to have been committed. Therefore, it is this intention, which is the gist of the offence.”

Vague or belated allegations of intimidation, without particulars, do not meet S.506 IPC.

13 (2024) 10 SCC 690



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9. **Analysis:**

For the alleged offences under Section 420 IPC, the prosecution case, even if accepted, shows money transfers in the context of business/fish farming. The FIR itself admits that some amounts were repaid. No particulars demonstrate that at the very inception, the petitioners intended not to repay. On the contrary, repayments militate against the presumption of dishonest inducement. The alleged promissory note, riddled with defects (no date, incomplete signatures), cannot by itself establish fraudulent inception. The materials thus disclose, at best, a commercial loan dispute, not cheating. The Hon 'ble Supreme Court in the case of **Lalit Chaturvedi and others vs State of Uttar Pradesh**¹⁴ has held as follows:

“10. The chargesheet also refers to Section 406 of the IPC, but without pointing out how the ingredients of said section are satisfied. No details and particulars are mentioned. There are decisions which hold that the same act or transaction cannot result in an offence of cheating and criminal breach of trust simultaneously. For the offence of cheating, dishonest intention must exist at the inception of the transaction, whereas, in case of criminal breach of trust there must exist a relationship between the parties whereby one party entrusts another with

¹⁴ 2024(1)Crimes 84(SC)



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the property as per law, albeit dishonest intention comes later.

In this case entrustment is missing, in fact it is not even alleged.

It is a case of sale of goods. The chargesheet does refer to Section 506 of the IPC relying upon the averments in the complaint. However, no details and particulars are given, when and on which date and place the threats were given. Without the said details and particulars, it is apparent to us, that these allegations of threats etc. have been made only with an intent to activate police machinery for recovery of money.

11. It is for the respondent no.2/complainant – Sanjay Garg to file a civil suit. Initiation of the criminal process for oblique purposes, is bad in law and amounts to abuse of process of law.

12. In view of the aforesaid discussion, the impugned judgment is set aside and the present appeal is allowed quashing the FIR and resultant proceedings, including the chargesheet.”

10. The Hon’ ble Supreme Court in the case of **Shikar Chemicals vs The State of Uttar Pradesh and another**¹⁵ in Special

¹⁵ Petition for Special Leave to Appeal (Crl.) No.11445 of 2025 dated 04.08.2025



Leave To Appeal , has made it clear that criminal proceedings cannot be initiated in cases of pure civil disputes as it amounts to abuse of the process of law and the relevant portions are extracted as follows:

“12. It is for the recovery of the balance amount that he thought fit to file a criminal complaint and institute criminal proceedings. It appears that the complainant in the first instance tried to lodge a FIR but the police declined to register the FIR saying that it was purely a civil dispute.

13. The Magistrate unfortunately remained unmindful of the fact that even as per the complainant’s own say the case is one of sale of goods and recovery of some balance amount.

19. The Judge has gone to the extent of saying that asking the complainant to pursue civil remedy for the purpose of recovery of the balance amount will be very unreasonable as civil suit may take a long time before it is decided and, therefore, the complainant should be permitted to institute criminal proceedings for the purpose of recovery of the balance amount.

20. Is it the understanding of the High Court that ultimately if the accused is convicted, the trial court would award him the balance amount? The observations recorded in para 12 are shocking. It is an extremely sad day for one and all to read the observations contained in para 12 of the impugned order. It



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was expected of the High Court to know the well-settled position of law that in cases of civil dispute a complainant cannot be permitted to resort to criminal proceedings as the same would amount to abuse of process of law. It was expected of the High Court to understand the nature of the allegations levelled in the complaint. In substance the High Court has said in so many words that the criminal proceedings instituted by the complainant in a case of pure civil dispute is justified because it may take considerable time for the complainant to recover the balance amount by preferring a civil suit.”

11. With respect to the alleged offence under Section 506 (i) of IPC, the FIR is devoid of date, time, or place of threats. The complaint was lodged with unexplained delay of five months. No material shows that the complainant was put in fear of injury or compelled to do or omit an act. This Court in the case of **Rajendran and others vs P.Natchiappan**¹⁶ has held that, mere verbal altercations without intent to alarm do not constitute criminal intimidation and the relevant portions are extracted as follows:

“7.It is necessary to refer the judgment of the Hon'ble Supreme Court in Manik Taneja and another Vs. State of

¹⁶ 2022 (1)MWN(Cr)442



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Karnataka and another reported in 2015 7 SCC 423, wherein the Hon'ble Apex Court has specifically held that mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section and the relevant passages are extracted hereunder:-

11. Section 506 IPC prescribes punishment for the offence of criminal intimidation. "Criminal intimidation" as defined in Section 503 IPC is as under:- "503. Criminal Intimidation.- Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation. Explanation.- A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this section." A reading of the definition of "Criminal intimidation" would indicate that there must be an act of threatening to another person, of causing an injury to the person, reputation, or property of the person threatened, or to the person in whom the threatened person is interested and the threat must be with the intent to cause alarm to the person threatened or it must be to do any act which he is not legally bound to do or omit to do an act which he is legally entitled to do.



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12. In the instant case, the allegation is that the appellants have abused the complainant and obstructed the second respondent from discharging his public duties and spoiled the integrity of the second respondent. It is the intention of the accused that has to be considered in deciding as to whether what he has stated comes within the meaning of "Criminal intimidation". The threat must be with intention to cause alarm to the complainant to cause that person to do or omit to do any work. Mere expression of any words without any intention to cause alarm would not be sufficient to bring in the application of this section. But material has to be placed on record to show that the intention is to cause alarm to the complainant. From the facts and circumstances of the case, it appears that there was no intention on the part of the appellants to cause alarm in the minds of the second respondent causing obstruction in discharge of his duty. As far as the comments posted on the Facebook are concerned, it appears that it is a public forum meant for helping the public and the act of appellants posting a comment on the Facebook may not attract ingredients of criminal intimidation in Section 503 IPC."

8.A learned Single Judge of this Court in Noble Mohandass Vs. State, reported in 1988 (2) MWN (Cri) 184, has held thus :

"Further for being an offence under Section 506(ii) IPC, which is



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rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually.”

9.In the case on hand, as rightly contended by the learned counsel for the petitioner, the words of threatening uttered by the petitioner are not sufficient to attract the offence of criminal intimidation. It is not the specific case of the complainant that due to the threatening words, he was criminally intimidated. Moreover, as rightly contended by the learned counsel for the petitioner, the words allegedly used by the petitioner are not in the nature of causing any real life threat.”

12. Fully fortified by the aforesaid judgments, I am of the considered view that, the charge under Section 506(i) of IPC is groundless against A3.

13. As far as contradictions are concerned, the FIR alleges that the complainant went to the accused's house; the rough sketch



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appended to the final report shows the complainant's house. Such contradictions strike at the root of the prosecution case. At the very least, as against A2 and A3, the inconsistencies are fatal to sustaining charges.

14. Thus it is needless to state that, in disputes arising out of loan or business transactions, where partial repayments are admitted and no dishonest intention at inception is shown, the ingredients of Section 420 IPC are not attracted. Similarly, bald and vague allegations of threat without specific particulars of date, time, place, or real intent to cause alarm do not constitute criminal intimidation under Section 506 IPC. Criminal prosecution cannot be used as a substitute for civil recovery.

15. Accordingly, in the considered view of this Court, even if prosecution materials are accepted as true, the ingredients of Sections 420 and 506 IPC are not made out against A2 and A3. The allegations reflect a civil/commercial transaction and vague intimidation. To allow the prosecution to continue would amount to abuse of process of law,



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as deprecated in **Lalit Chaturvedi¹⁷**, **M.E. Shivalingamurthy¹⁸** and **Saijan Kumar v. CBI¹⁹**.

16. In fine, both the Criminal Revision cases are allowed.

17. The orders dated 11.07.2023 in CrI.M.P. No.2178 of 2023 and 24.08.2023 in CrI.M.P. No.5802 of 2023 are set aside. The petitioners/A2 and A3 are hereby discharged from the proceedings in C.C. No.938 of 2020 pending on the file of the learned Judicial Magistrate No.VI, Madurai. The learned Trial Court shall proceed with the case only against A1, uninfluenced by any of the observations herein, and conclude the trial expeditiously. Consequently, connected miscellaneous petitions are closed. No costs.

31.10.2025

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

17 2024(1)Crimes 84(SC)

18 2020(2)SCC 768

19 2010(9)SCC 368

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To

- 1.The Judicial Magistrate Court No.VI,
Madurai.
- 2.The Sub Inspector of Police,
Thirunagar Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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