



Crl.R.C.(MD)No.98 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.02.2025

Delivered on : 11.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.98 of 2024

Kasi Viswanathan

: Petitioner

Vs.

The Inspector of Police,
Ammainayakkanur Police Station,
Dindigul District.

: Respondent

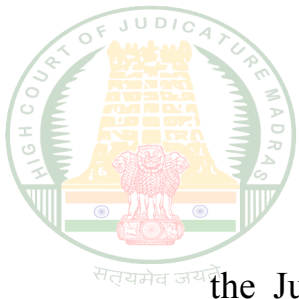
PRAYER : Criminal Revision Petition filed under Sections 397 r/w 401 of Cr.P.C, to call for the records and set aside the order passed by the learned Judicial Magistrate, Nilakottai in Crl.M.P.No.5663 of 2023, dated 05.09.2023.

For Petitioner : Mr.G.Dharmaraj

For Respondent : Mrs.M.Aasha,
Government Advocate (Criminal Side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No.5663 of 2023, dated 05.09.2023 on the file of the Court of



Crl.R.C.(MD)No.98 of 2024

WEB COPY

the Judicial Magistrate, Nilakottai, dismissing the petition filed under Section 156(3) of Code of Criminal Procedure.

2. The case of the petitioner is that the petitioner is owning a house in Door No.10/53, Govundanpatti Village at Nilakottai Taluk in Dindigul District; that the petitioner's paternal grandmother Vanapetchi is living in the said house; that on 27.05.2023 evening the petitioner's relatives Vignesh, Nagarajan and his son Vishnu and his wife Manimozhi came to the house and assaulted the grandmother, abused her in filthy language and caused criminal intimidation; that the petitioner's grandmother lodged a complaint against them and she was admitted in the Government Hospital, Nilakottai on the same day; that when the petitioner went to the said house on 28.05.2023 morning to take medicine for grandmother, he found that the house door was broken, CCTV camera, channel, Hard disk, camera power supply were found damaged and stolen by the unknown persons; that the petitioner immediately lodged a complaint with the respondent police, but there was no action; that the petitioner has then sent a complaint to the Superintendent of Police, Dindigul and that since there was no action, the



Crl.R.C.(MD)No.98 of 2024

WEB COPY

petitioner was constrained to lodge a petition under Section 156(3) of Cr.P.C., before the jurisdictional Magistrate Court.

3.The learned Judicial Magistrate, taking the petition filed under Section 156(3) of Cr.P.C., on file in Crl.M.P.No.5663 of 2023 and upon perusing the petition, petitioner's affidavit and on hearing the petitioner's side, has passed the impugned order, dated 05.09.2023, holding that the dispute is of civil in nature, dismissed the petition.

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 *deprecated* the practice of attempting to settle the civil disputes by applying pressure through criminal prosecution and the relevant passage is extracted hereunder:

“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



WEB COPY



Crl.R.C.(MD)No.98 of 2024

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 its jurisdiction under Section 482 of the Code. Jurisdiction under this Section has to be exercised to prevent abuse of the process of



WEB COPY



Crl.R.C.(MD)No.98 of 2024

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

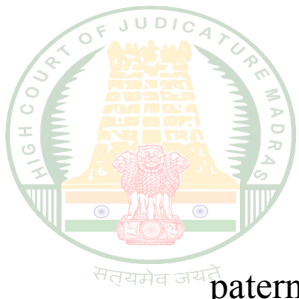


Crl.R.C.(MD)No.98 of 2024

WEB COPY

6. The learned counsel for the petitioner would submit that while considering the application under Section 156(3) of Cr.P.C., the Magistrate has no jurisdiction to verify the truth and veracity of the allegations; that the learned Magistrate in this case considered the veracity of the complaint and the same is very much against law; that the learned Magistrate upon receipt of the petition filed under Section 156(3) Cr.P.C., has to pass an order contemplated under Section 156(3) Cr.P.C, or to direct examination of the complainant on oath and the witness present and proceed further in the manner provided by Section 202 of Cr.P.C; that the learned Magistrate failed to consider that the complaint discloses cognizable offence and that therefore, the impugned order of dismissal is liable to be interfered with.

7. In the petition filed under Section 156(3) of Cr.P.C., and also the affidavit filed in support of the above petition, the petitioner has referred about the earlier incidents, wherein his paternal uncle Nagarajan and others had damaged the crops available in the land, which came to be allotted to the petitioner's side in a oral partition; that the petitioner's



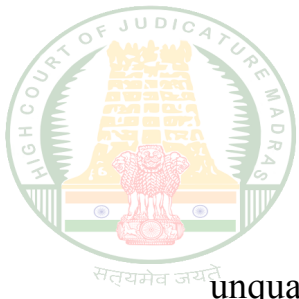
Crl.R.C.(MD)No.98 of 2024

WEB COPY

paternal uncle and his family members had been indulging in such unlawful activities continuously and that though the respondent police had received the complaint and issued CSR, they have failed to take any action.

8.Considering the above, the learned Magistrate has rightly observed that there existed land dispute between the parties. The learned Magistrate has further observed that though the petitioner alleged that his grandmother has suffered injury, they have not produced any iota of any materials and that they have not shown any *prima facie* case to proceed further.

9.The learned counsel appearing for the petitioner would submit that since their petition under Section 156(3) Cr.P.C., discloses the commission of cognizable offence, the Judicial Magistrate is duty bound to forward the complaint to the concerned police for registering an FIR and that he has no power or jurisdiction to dismiss the same by himself. The above contention of the learned counsel appearing for the petitioner is absolutely devoid of merits as the complainant does not have an



Crl.R.C.(MD)No.98 of 2024

WEB COPY

unqualified right to demand a police investigation in all circumstances 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. It is settled law that the Judicial Magistrate, while exercising power under Section 156(3) Cr.P.C., cannot act as a post office and 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.



Crl.R.C.(MD)No.98 of 2024

WEB COPY

12. Considering the above, this Court has no hesitation to hold that the petitioner has been attempting to give the civil dispute a criminal color and as such, the impugned order dismissing the petition filed under Section 156(3) Cr.P.C, by the learned Magistrate cannot be found fault with. Consequently, this Court concludes that the revision is devoid of merit and the same is liable to be dismissed.

13. In the result, this Criminal Revision Petition is dismissed.

11.03.2025

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

To

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



WEB COPY



Crl.R.C.(MD)No.98 of 2024

K.MURALI SHANKAR,J.

das

Order made in
Crl.R.C.(MD)No.98 of 2024

Dated: 11.03.2025