

CrI.R.C.(MD)No.1369 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.04.2025

Delivered on : 20.06.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CrI.R.C.(MD)No.1369 of 2023

Sagayarasu

: Petitioner

Vs.

1.K.Kasthuri

2.K.Shoba

3.N.Arockiyadas

4.D.Vasanthakumar

: Respondents

(petitioner name amended as per order of the Court, dated 27.02.2025
in CrI.M.P(MD)No.2381 of 2025 in CrI.RC(MD)No.1369 of 2023)

PRAYER : Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C., to call for the records relating to the order, dated 21.11.2023 made in Cr.M.P.No.36473 of 2023 on the file of the learned Judicial Magistrate No.VI, Tiruchirappalli and set aside the same and direct the learned Judicial Magistrate to take the private complaint on file and proceed in accordance with law.



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For Petitioner : Mr.M.Ragul,
for M/s.Gandhi Associates.

For Respondents : Mr.T.Lenin Kumar.

ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.36473 of 2023, dated 21.11.2023 on the file of the Court of the learned Judicial Magistrate No.VI, Tiruchirappalli, in dismissing the private compliant filed under Section 203 of the Code of Criminal Procedure.

2. The case of the petitioner/defacto complainant is that he is a retired Indian Railway employee; that when the petitioner was in need of Rs.1 lakh for paying college fees for his son, the petitioner's friend introduced the first respondent, who is working as Junior Assistant in HAPP and is also doing money lending business; that the petitioner had obtained loan of Rs.1 lakh from the first respondent and at that time, the first respondent had taken the petitioner's sale deed, dated 16.08.2010 and the signatures in blank sheets in the presence of retired railway employees Anandhan and one Karunanithi; that the first respondent had taken totally Rs.1,84,200/- towards principal and interest from the bank account of the petitioner during the period from 01.03.2014 to 01.07.2015; that when the petitioner demanded the first



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respondent to return the original sale deed and the signed blank sheets, the first respondent informed that he would trace out and return the same; that when the petitioner was on official trip to Pune, Delhi, Bangalore and Villupuram for the period between from 01.08.2015 and 07.09.2015, the second respondent filed a suit in O.S.No.959 of 2015 for recovery of Rs.7 lakhs with interest before the I Additional Sub Court, Trichy and that the petitioner is not aware about the second respondent as the petitioner had not obtained any loan from the second respondent nor gave any document as security.

3.It is the further case of the petitioner that the first respondent by working in Central Government department has been doing money lending business illegally; that the petitioner came to know that the first respondent by lending money had cheated so many persons including the Government staffs, that the petitioner does not know about the respondents 3 and 4, but came to know that both of them had subscribed their signatures as attested witnesses in the documents created fraudulently and that the respondents had committed the offences under Sections 120(B), 193, 196, 209, 418, 420, 465, 469, 471, 474 and 506 IPC and under Sections 3 and 4 of Tamil Nadu



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Prohibition of charging Exorbitant Interest Act and under Sections 3, 6, 9, 10 (a) and 11 of Tamil Nadu Money Lender's Act.

4. The learned Judicial Magistrate, taking the petition filed under Section 190(1)(a) r/w 200 Cr.P.C., as a complaint under Section 200 Cr.P.C., and proceeded to conduct enquiry under Section 202 Cr.P.C. The learned Magistrate recorded the sworn statement of the petitioner/complainant and also recorded the statements of three persons Karunanithi, Annadurai and Anandhan produced by the petitioner. The learned Magistrate, upon perusing the petitioner's complaint, sworn statement of the complainant and the statements of the other witnesses and the other materials produced, has passed the impugned order, dated 21.11.2023, holding that the dispute is of civil in nature and that there was no prima facie case to proceed against the respondents, dismissed the complaint under Section 203 Cr.P.C.

5. The learned counsel for the petitioner would submit that mere pendency of civil suit is not a bar to proceed against the accused under Criminal Law; that the complaint filed by the petitioner, his sworn statement



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and the statements of the other witnesses disclose *prima facie* case as against the respondents; that the petitioner in addition to his sworn statement has produced three witnesses in support of his case; that the respondents 1 and 2 have filed nearly 20 cases for the offences under Section 138 of NI Act against the various borrowers and the same would confirm the fact that they are habitually filing the cases against the innocent borrowers by misusing the documents obtained by them fraudulently and that the learned Magistrate, without considering the averments in the private complaint and the statements of the witnesses, has proceeded to dismiss the complaint and that thereafter, the same is liable to be interfered with.

6. The learned counsel for the petitioner would rely on a decision of this Court in ***P.K.Palanisamy Vs. Doraisamy*** reported in ***1992 0 Supreme (Mad) 627*** and the relevant passages are extracted hereunder :

“ 4. *It is true, that there can be no doubt, that the complaint could be dismissed, if the Magistrate thought that there was no sufficient ground for proceeding. This "sufficient ground" contemplated under the section, relates to the facts which the complaint places before the Court, to show existence of prima facie case against the accused. It is further true that in arriving at his conclusion under section 203, Cr.P.C. Learned*



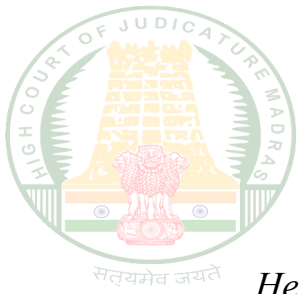
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Magistrate can take into consideration any inherent improbabilities appearing on the fact of the complaint or in the evidence led by the complainant in support of the allegations, but the line of demarcation is thin between the probability of a conviction of the accused and the establishment of a prima facie case against him. The thinner the demarcation the greater is the responsibility of the Magistrate in exercising his judicial discretion. At this stage, the veracity and effect of the evidence which the complainant produce or proposes to adduce at the trial, are not to be meticulously judged. The standard of proof and judgment, which is to be applied finally before finding the accused guilty or otherwise is not exactly to be applied at the stage contemplated under sections 202 and 203, Cr.P.C. When a prima facie case is made out, a complaint cannot be mechanically dismissed, on the score that a conviction may not be feasible ultimately. An opportunity should be given to the complainant to prove his case.”

7. The learned counsel for the petitioner would rely on another decision of this Court in the case of **S.Dhananjeyan Vs. R.Mohan** reported in **(2007) 1 MLJ (Crl) 170** and the relevant passages are extracted hereunder:

“ 10. On a perusal of the order impugned, I find that the learned Magistrate has over-reached and misdirected himself.

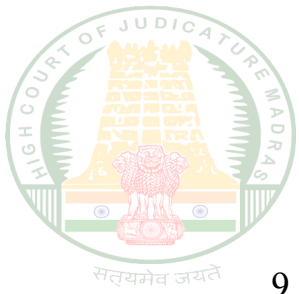


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He has to find out the availability of sufficient materials to substantiate a prima facie case but discussed about the prospects of the case, which is not required under law. It has been repeatedly held by the Supreme Court and this Hon'ble Court that such an exercise is deprecated. The question at the initial stage was not whether there was any truth in the allegation made in the complaint but the question was whether on the basis of the allegations prima facie case and an offence is made out. The truth or otherwise of the allegation made in the complaint would be examined at the time of the trial."

8. There is absolutely no dispute with regard to the legal position referred above. It is settled law that very object of enquiry under Section 202 Cr.P.C., is to ascertain the truth or falsehood of the complaint and that at the time of taking cognizance of offence, the Court has to consider only the averments made in the complaint and the statements recorded if any and that if the Magistrate is satisfied that a *prima facie* case is made out against the accused, can issue process under Section 204 Cr.P.C., and if the Magistrate is satisfied that there is no sufficient ground for proceeding, can dismiss the complaint under Section 203 Cr.P.C.



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9. The learned counsel for the respondents would submit that the second respondent filed a suit in O.S.No.959 of 2015 for recovery of Rs.7 lakhs with interest and the same is pending on the file of the I- Additional Sub Court, Trichy from 2015 onwards; that the petitioner has raised vague and bald allegations against the respondents; that the learned Magistrate considering the complaint and statements of the witnesses and other materials produced has come to a decision that there is absolutely no material to proceed against the respondents and that the petitioner has only been attempting to convert the civil dispute into a criminal case and that therefore, there is nothing to interfere with the reasoned order passed by the learned Judicial Magistrate.

10. As already pointed out, it is the specific case of the petitioner that he borrowed a sum of Rs.1 lakh by giving his original sale deed and signed blank sheets and that the first respondent has recovered the loan amount from the bank account of the petitioner and that since the petitioner has discharged the loan, he demanded the first respondent to return his original sale deed and signed blank sheets, but the first respondent informed that the same were kept in his office and he would trace out and hand over the same and that the petitioner had believed the words of the first respondent.



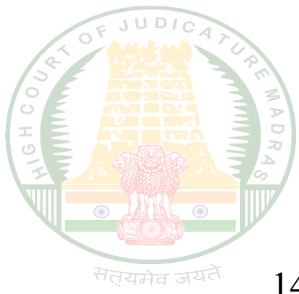
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11.The petitioner admittedly knew about the first respondent's Central Government job when borrowing the loan. Initially, the petitioner stated that he agreed to take the loan after confirming the first respondent's money lending license. However, later in the complaint, the petitioner alleged that the first respondent's money lending activities while working in the Central Government Department were an offence.

12.The petitioner alleged that despite repeated requests, the first respondent failed to return the original sale deed and blank sheets, instead misusing them to file cases through other individuals. The petitioner has provided a list of cases allegedly filed by the first respondent through others, including relatives.

13. Section 193 and 196 of IPC deals with false evidence. Section 195 of Cr.P.C, strictly mandates that prosecution for offence under Section 193 and 196 IPC can only be initiated through Court sanctioned complainant and not through private complaint. Section 340 of Cr.P.C, outlines the procedure for initiating prosecution in cases where an offence referred to in Section 195(1)(b) Cr.P.C., appears to have been committed on or in relation to a Court proceeding.



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14. In the present case, the petitioner has failed to plead specific offenses under Sections 193 and 196 IPC or the requirements for a court complaint. Furthermore, the petitioner has not provided details regarding alleged cheating and forgery. Although the petitioner alleged offenses under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act and Tamil Nadu Money Lender's Act, there is no mention of the interest rate claimed or collected.

15. It is pertinent to note that when a complaint is filed before the Court of competent jurisdiction, the Magistrate will have two options and as per first option, he can take the complaint filed under Section 200 Cr.P.C., by examining the complainant and witnesses if any and he can pass orders either to dismiss the same under Section 203 Cr.P.C., or to issue process under Section 204 of Cr.P.C. As per second option, if the complaint discloses any cognizable offence, he can refer the matter for investigation under Section 156(3) Cr.P.C., to find out the truth of allegations.

16. In the case on hand, as already pointed out, the petitioner has filed a private complaint under Section 200 Cr.P.C., and the learned Magistrate



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has rightly proceeded with enquiry under Section 202 Cr.P.C., and after finding that there are no sufficient materials to proceed against the respondents, dismissed the complaint under Section 203 of Cr.P.C.

17. Considering the complaint under Section 200 CrPC, the sworn statement of the complainant, witness statements, and other materials on record, this Court concludes that the petitioner has failed to establish a prima facie case against the respondents. It appears that the petitioner is attempting to cloak a money transaction in criminal garb. The learned Magistrate's order dismissing the complaint under Section 203 is justified. Consequently, this Court finds the criminal revision lacks merit and is liable to be dismissed.

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

20.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

The Judicial Magistrate No.VI, Tiruchirappalli.

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K.MURALI SHANKAR,J.

das

Pre-delivery Order made in
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Dated: 20.06.2025