



CrL.R.C.(MD)No.1389 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)No.1389 of 2023

A.Syed Sulaiman

... Petitioner

-VS-

1.Syed Makthum

2.The Inspector of Police,
O/o. Kadayanallur Police Station,
Kadayanallur,
Tenkasi District.

... Respondents

PRAYER : Criminal Revision Case is filed under Section 397 read with 401 of Cr.P.C., 1973, to set aside the order of the learned Judicial Magistrate, Tenkasi, in CrL.M.P.No.5992 of 2023 dated 09.08.2023 and consequently direct the second respondent to register the first information report by following the guidelines of *Lalitha Kumar's* judgment.

For Petitioner

: Mr.S.M.A.Jinnah

For Respondents

: Mr.B.Pragalad Ravi for R1

Mr.M.Sakthi Kumar,

Government Advocate for R2

ORDER

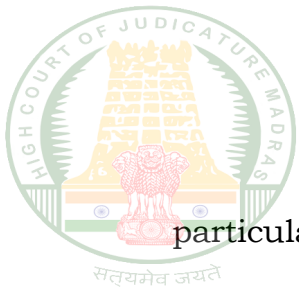
Challenging the order passed in CrL.M.P.No.5992 of 2023 dated 09.08.2023, on the file of the learned Judicial Magistrate, Tenkasi, this Criminal Revision Case is filed.



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Facts of the Case:-

2.The petitioner filed an application under Section 156(3) of Cr.P.C. before the learned Trial Court, praying for a direction to the second respondent police to register an FIR against the first respondent on the basis of his complaint. The grievance of the petitioner is that he had stood as a witness to an agreement for sale executed by the first respondent in favour of one Fathima for a sale consideration of Rs.22,00,000/-. Since the agreement was not honoured, disputes arose between the first respondent and Fathima, which were later resolved through settlement. The petitioner alleges that, since he had stood as a witness to the aforesaid agreement, the first respondent developed enmity against him. Subsequently, the first respondent instituted O.S.No.428 of 2022 before the learned Additional District Judge, Tenkasi, based on an alleged pro note of Rs.10,00,000/-, purportedly executed by the petitioner. Shocked by the institution of the said suit, the petitioner lodged a complaint before the second respondent police on 28.05.2023, which was assigned C.S.R.No.600 of 2023. As no action was taken, he sent a representation to the Superintendent of Police on 27.06.2023, which was duly received on 28.06.2023. Still, there being no action, he approached the learned Magistrate under Section 156(3) Cr.P.C., seeking registration of an FIR for offences under Sections 468, 469, and 471 of IPC. The learned Judicial Magistrate, however, rejected the application on the ground that the matter was purely civil in nature,



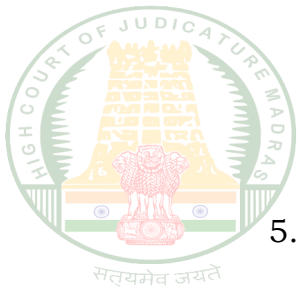
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particularly as a civil suit was already pending. Aggrieved by the said rejection, the present Revision Case has been filed.

Submissions:-

3.The learned counsel appearing for the petitioner contended that the learned Magistrate committed a grave error in dismissing the complaint as one of civil implication when in fact a clear case of forgery and fabrication of documents was made out. He submitted that the petitioner had moved an interim application in I.A.No.3 of 2023 in O.S.No.428 of 2022, before the learned Additional District Court, seeking expert opinion on the alleged signature in the disputed pro note. The forensic report dated 24.12.2023, categorically revealed that the signatures had been transplanted using one genuine signature of the petitioner as a model. This *prima facie* established that the pro note was a forged and concocted document.

4.It was therefore urged that once forgery was evident, the matter ceased to be a mere civil dispute and assumed the character of a cognizable offence, thereby mandating police investigation under the law. It was further insisted that allegations disclosing commission of cognizable offences cannot be stifled under the garb of civil disputes.



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5.Per contra, the learned counsel for the first respondent submitted that the issue regarding the genuineness of the pro note is sub judice before the civil court and only after the evidence of handwriting experts and conclusion of trial, the issue could be settled. Till such time, the matter remains civil in nature and no criminal action can be initiated. It was propounded that parallel civil and criminal proceedings should not be encouraged when the dispute is predominantly civil.

6.The learned Government Advocate (CrI.) appearing for the second respondent submitted that the police were not made aware of the forensic opinion obtained in the civil suit and therefore, the learned Magistrate also had no opportunity to consider the same.

7.I have considered the rival submissions and carefully perused the records.

Analysis:-

8.The Hon'ble Supreme Court in ***Lalita Kumari v. Government of Uttar Pradesh***¹, has held that registration of FIR is mandatory when information discloses commission of a cognizable offence. Further it is needless to state that in categories of cases where forgery and fraud affecting public justice must be subjected to criminal prosecution.

¹ (2014) 2 SCC 1



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9. In the present case, the forensic report dated 24.12.2023, in I.A.No.3 of 2023 in O.S.No.428 of 2022, categorically indicates that the disputed signatures were transplanted using model signatures of the petitioner. *Prima facie*, this points towards commission of offences under Sections 468 and 471 of IPC. However, this Court also notes that the civil suit is still pending before the learned Additional District Judge, Tenkasi. Until the civil court records a final finding on the disputed pro note, parallel criminal prosecution may lead to conflicting findings.

10. At the same time, once the civil court, upon appreciating the expert opinion and other evidence, concludes that the pro note is forged, the criminal law will have to be set in motion. In such circumstances, the proper course is to defer criminal action till the disposal of the civil suit, but simultaneously ensure that if the civil court records a finding of forgery, the criminal court is bound to take action under Section 195 of Cr.P.C.

11. In view of the above discussion, this Court holds that the learned Magistrate was correct in refraining from ordering FIR registration during pendency of the civil suit. But the learned Magistrate erred in completely closing the petitioner's complaint without safeguarding future criminal prosecution in case the pro note is proved to be forged. Accordingly, it is



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directed that upon conclusion of O.S.No.428 of 2022, if the civil court records a finding that the disputed pro note is a forged and concocted document, the petitioner is at liberty to initiate appropriate proceedings against the first respondent in terms of Section 195 of Cr.P.C.

12.With the above directions, this Criminal Revision Case is disposed of. No costs.

07.08.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn

To

- 1.The Additional District Judge, Tenkasi.
- 2.The Judicial Magistrate, Tenkasi.
- 3.The Inspector of Police,
O/o. Kadayanallur Police Station,
Kadayanallur,
Tenkasi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madurai High Court, Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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