

Crl.R.C.(MD)No.477 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.04.2025

Pronounced on : 30.04.2025

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.477 of 2024

M.Balasubramanian

... Petitioner

Vs.

1.The Inspector of Police,
Mayanoor Police Station,
Karur District.

2.R.Amaravathy

3.R.Karthikeyan @ Karthikraja

... Respondents

Prayer : This Criminal Revision Case filed under Section 397 and 401 Cr.P.C., to call for the records in Crl.M.P.No.110 of 2023 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, Karur District dated 10.03.2023 and set aside the same.

For Petitioner : Mr.C.Ezhilarasu

For R1 : Mrs.M.Aasha
Government Advocate (Crl. Side)

For R2 & R3 : No appearance



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ORDER

The Criminal Revision is directed against the order passed in Crl.M.P.No.110 of 2023 dated 10.03.2023 on the file of the District Munsif cum Judicial Magistrate, Krishnarayapuram, dismissing the complaint filed under Section 156(3) of the Code of Criminal Procedure.

2. The case of the petitioner/complainant is that the respondents 2 and 3/proposed accused are residing on the western side of the petitioner's property, that there existed land disputes between them, that the petitioner filed a writ petition before the Madurai Bench of Madras High Court in W.P.(MD)No.22834 of 2022 against the District Collector, Karur and the Tahsildar, Kadavur Taluk seeking direction to measure his property and the Court has passed an order for the same on 29.09.2022, that the Tahsildar, Kadavur Taluk issued a notice at about 10.00 a.m. on 23.11.2022 informing his proposed inspection, that though he has attempted to serve notice on the second respondent, she has refused to receive the same and hence, the Tahsildar has posted the notice on the outdoor of the second respondent's residence, that the property came to be measured and thereby boundaries were identified on three sides but there

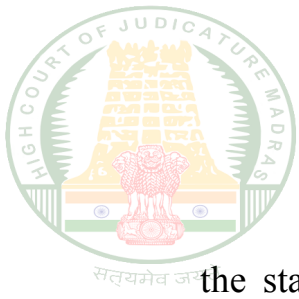


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was no boundary stone on the southern-northern boundary, that since the Surveyor identified the southern-northern boundary, cement pole was erected, that on 23.11.2022 at about 05.00 p.m., the respondents 2 and 3 had trespassed into the petitioner's land and removed the cement pole and abused the petitioner in filthy language and also demolished the compound wall and caused criminal intimidation, that though the petitioner lodged a complaint before the Mayanoor Police, they have neither issued any receipt nor taken any action, that the petitioner has sent a complaint through online on 25.11.2022 to the Director General of Police, Chennai, Deputy Inspector General of Police, Trichy, District Superintendent of Police, Karur, Deputy Superintendent of Police, Kuzhithalai, Inspector of Police, Mayanoor and also through registered post and that since there was no action, the petitioner was constrained to file the petition under Section 156(3) Cr.P.C. before the jurisdictional Magistrate Court for registration of a case and for investigation.

3. The learned Magistrate, taking the petition filed under Section 156(3) Cr.P.C. on file in Crl.M.P.No.110 of 2023, has proceeded to treat the complaint under Section 200 Cr.P.C. The learned Magistrate recorded



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the statement of the petitioner and also the statement of two witnesses produced by the petitioner. The learned Magistrate, upon perusing the complaint, statement of the petitioner and other witnesses and other materials available on record, has passed the impugned order dated 10.03.2023 by holding that the dispute is of civil in nature, dismissed the complaint probably under Section 203 Cr.P.C. Challenging the said dismissal order, the present revision came to be filed.

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 *deprecat*ed 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 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



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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 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



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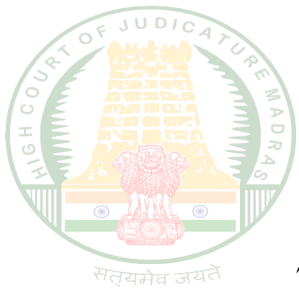


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proceedings are unwarranted and his remedy lies only in civil law, should himself be made accountable, at the end of such misconceived criminal proceedings, in accordance with law. One positive step that can be taken by the courts, to curb unnecessary 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.

6. As already pointed out, even in the complaint filed under Section 156(3) Cr.P.C., the petitioner has specifically stated that there existed land dispute between him and the respondents 2 and 3. The petitioner, in his statement, has reiterated the said version that there existed land dispute with regard to the three feet land in between the houses of the petitioner and the respondents 2 and 3.

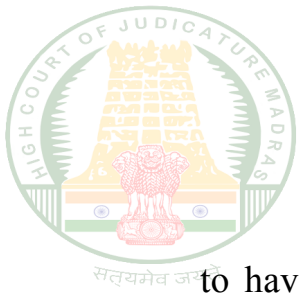


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7. It is pertinent to note that the petitioner has filed a writ petition in W.P.(MD)No.22834 of 2022 seeking writ of mandamus directing the Tahsildar, Kadavur Taluk to consider the petitioner's representation and measure the property situated in Survey No.448/9A1 and 448/9A2 at Manjanayakkampatti Village, Kaniyalampatty Post, Kadavur Taluk, Karur District and this Court vide order dated 29.09.2022 directed the petitioner to produce all the relevant documents before the respondents and upon receipt of all the relevant documents, the Tahsildar, Kadavur Taluk was directed to survey the land of the petitioner and demarcate the boundaries. Notably, the petitioner has not impleaded the respondents 2 and 3 in the writ petition. Moreover, there was no reference to the land dispute that existed between the house of the petitioner as well as the respondents 2 and 3.

8. The petitioner, in the complaint as well in the statement, would say that the Surveyor measured the property, identifying boundaries on three sides, and despite the absence of a boundary stone on the southern-northern boundary, a cement pole was erected in its place in the presence of officials. However, before the learned Magistrate, the petitioner claimed



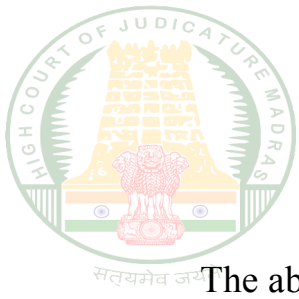
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to have erected the cement pillar some inches away from the Surveyor-identified boundary. The learned Magistrate rightly noted the inconsistency. Furthermore, while the petitioner and witness Kalidass alleged that respondents 2 and 3 demolished the petitioner's compound wall, another witness, Maruthai, claimed that the respondents damaged the petitioner's house property, highlighting further discrepancies.

9. The learned Magistrate, considering the averments in the complaint as well as the statement of the witnesses, has come to a decision that the ingredients for the offences under Sections 294(b), 425, 451 and 506(2) IPC are not made out and the petitioner has not shown any *prima facie* case to proceed against the respondents 2 and 3 further and dismissed the complaint.

10. 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.



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The above contention of the learned counsel appearing for the petitioner is absolutely devoid of merit as the complainant does not have an 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. 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.

11. Considering the entirety of the case's facts and circumstances, including the petitioner's affidavit and witness statements, this Court has no hesitation in holding that the petitioner has attempted to cloak a civil dispute in criminal garb. The learned Magistrate has rightly observed that this amounts to an abuse of court process and as such, the impugned order dismissing the complaint under Section 156(3) 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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costs.

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

30.04.2025

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

To

1. The District Munsif cum Judicial Magistrate,
Krishnarayapuram, Karur District.
- 2.The Inspector of Police,
Mayanoor Police Station,
Karur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
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Dated : 30.04.2025