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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CrI.OP.(MD)No.5130 of 2026

V.Arockiyadoss

...Petitioner/Defacto Complainant

Vs

1. Nachimuthu
2. Mohammed Shafiq @ Sundarapandi,
3. The Sub Registrar,
Nagal Nayakkanpatti Sub Registrar Office,
Dindigul.
4. S.J.Sudhakar
5. R.Rajesh
6. State of Tamilnadu,
Rep by the Inspector of Police,
DCB-II, Dindigul.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, 2023, to call for the entire records pertaining to the return endorsement docket order 12.01.2026 passed by the learned Judicial Magistrate Court No.II, Dindigul, to number to Protest Petition filed by the petitioner dated 27.11.2025 in connection with the Cr.M.P.No.514 of 2025 order dated 30.05.2025 set aside the same and number the Protest Petition.



For Petitioner : M/s.S.Balaji

For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
for R3 and R6

* * * * *

ORDER

The present petition has been filed challenging a return order passed by the learned Judicial Magistrate No.II, Dindigul, returning the Protest Petition filed by the petitioner.

2. The petitioner herein had lodged a complaint before the respondent police on 07.02.2025. Since the same was not taken on file, he had filed Cr.M.P.No.514 of 2025, before the learned Judicial Magistrate No.II, Dindigul, under Section 156(3) of Cr.P.C. This application came to be disposed of on 30.05.2025 with a direction to the Inspector of Police, District Crime Branch, Dindigul, to conduct a preliminary enquiry to ascertain whether the information furnished in the complaint reveals any cognizable offence or not. In case if any cognizable offence is revealed, the concerned police officials were directed to register an FIR.



3. In compliance with the orders of the Court, investigation was conducted and a report was filed before the learned Judicial Magistrate to the effect that the investigation reveals that it is a civil dispute and pertaining to the said dispute, already O.S.No.419 of 2024, is pending and therefore, no further action could be initiated. Pursuant to the said report, notice was issued to the petitioner and the petitioner has filed a Protest Petition.

4. A perusal of the Protest petition reveals that along with the Protest Petition, the petitioner has enclosed around 16 documents in support of his contentions that cognizable offence is made out and therefore, a further investigation has to be ordered by the concerned Court. This application has been returned under the impugned order wherein the learned Judicial Magistrate has held that the police report states that no cognizable offence is made out and therefore, the present petition is not maintainable and the petitioner was granted liberty to seek remedy before the appropriate forum. This order of return is under challenge.

5. According to the learned Counsel appearing for the petitioner, the learned Judge ought to have numbered the Protest Petition and heard the application on merits and thereafter, decided the issue. Without numbering the



same, the order of return is not maintainable and the same is nothing but refusing to exercise its jurisdiction.

6. I have considered the submissions made on either side and perused the materials available on record.

7. A perusal of the order impugned in the present petition reveals that the learned Judicial Magistrate has accepted the report filed by the police authorities.

8. A perusal of the Protest Petition reveals that the petitioner has enclosed some additional records to an extent of around 16 documents in support of his contentions. In such view of the matter, the concerned Magistrate would not be in a position to automatically take cognizance under Section 190(i)(b) of Cr.P.C. Therefore, exercising his discretion, the Judicial Magistrate has dismissed the Protest Petition granting liberty to the petitioner to invoke Chapter XV of the Cr.P.C.

9. In such circumstances, this Court is of the considered opinion that there is no illegality or infirmity in the impugned herein.



10. In view of the above said facts, the order impugned in the petition is hereby sustained. However, the petitioner would be at liberty to invoke Chapter XV of Cr.P.C., in case if the petitioner is so advised.

11. With the above said observations, this Criminal Original Petition stands disposed of.

11.03.2026

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR

Note:-

Registry is directed to return the original impugned order after obtaining due acknowledgment from the learned Counsel for the petitioner.

To

1. The Sub Registrar,
Nagal Nayakkanpatti Sub Registrar Office,
Dindigul.
2. The Inspector of Police,
DCB-II, Dindigul.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R.VIJAYAKUMAR, J.

RJR

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