Case Citation: (2026) ibclaw.in 6429 HC

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CRL RC(MD) NO. 1552 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16-09-2026**

CORAM

THE HONOURABLE MR.JUSTICE N.GUNASEKARAN

CRL RC(MD) NO. 1552 of 2026

{CNR: HCMD011281642026}

Case QR

A.Alwin Martin Joseph
S/o Albert,
Regional Manager,
State Bank of India,
Thoothukudi Regional Office,
Thoothukudi

Petitioner

Vs

1.S.P.Jeyagopal
2.J.Jeyavaishnavi
3.S.Inbarajan

4.The Superintendent of Police,
Office of Virudhunagar District Superintendent of Police,
Virudhunagar.

5.The Inspector Of Police
District Crime Branch Police Station
Virudhunagar District.

Respondents

For Petitioner:

Mr.V.P.Rajan

For Respondents:

Mr.C.Chirstopher
Additional Public Prosecutor for R4 and R5

Prayer:

To call for the records and set aside the order made in Cr.M.P.No.

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1466/2026 dated 11.06.2026 on the file of the Judicial Magistrate Court No.2, Virudhunagar.

ORDER

This Criminal Revision Case is filed against the order dated 11.06.2026 in Crl.M.P.No.1466 of 2026 on the file of the learned Judicial Magistrate Court No.II, Virudhunagar.

2. The case of the prosecution, in brief, reads as follows:

i) The Respondents 2 and 3 are the husband and wife. The 1st respondent, being the Proprietor of M/s. Dhamayanthiammal, the 2nd respondent, being the Propreitor of M/s.J.J.Enterprises and the 3rd respondent, being the Propreitor of M/s.Metarays (P) Ltd, had borrowed a sum of Rs.2,84,29,998.48/- [Rupees Two Crores Eighty Four Lakhs Twenty Nine Thousand Nine Hundred Ninety Eight and Forty Eight paisa only] in total as cash credit from the Bank of the revision petitioner by executing necessary documents as security including hypothecation of working capital, namely, stock-in-trade and trade receivables etc, and had cheated the bank in the repayment of the loan by committing criminal breach of trust amd thus, caused a loss to the tune of Rs.2,63,15,208.45/-

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ii) As a result, the revision petitioner had lodged a complaint dated 10.10.2024 with the Superintendent of Police, Virudhunagar District/Respondent No.4, and, alleging inaction, had sent another complaint before the 5th respondent dated 05.03.2025 through registered post before lodging a private complaint with the learned Judicial Magistrate No.II, Virudhunagar. It is brought to the notice that the said private complaint was dismissed, vide order dated 11.06.2026 in Crl.M.P.No.1466 of 2026. Aggrieved over the same, the present Criminal Revision Case has been preferred.

3. The case of Respondents 1 to 3, in brief, reads as follows:

These respondents had availed loan on executing necessary documents as security and due to loss in their business, they were unable to repay the same in time and no offence as alleged by the prosecution had taken place.

4. The learned Additional Public Prosecutor appearing for the respondents 4 and 5 would submit that the respondents 1 to 3 had failed to repay the loan having availed from the criminal revision petitioner due to loss in their business and would

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further submit that the bank had lent the loan on obtaining necessary security from the respondents 1 to 3 and more over, the dispute in between the parties are of civil in nature and the petitioner is having alternative remedy to redress its grievance by invoking necessary provision of law under SARFAESI Act and hence, sought to dismiss the petition under order.

5. Both side heard. Records perused.

6. It is noticed that the respondents 1 to 3 are the Proprietors of M/s.Dhamayanthiammal, M/s.J.J.Enterprises and M/s. M/s.Metarays (P) Ltd, respectively. It is alleged that they had availed loan to the tune of Rs.2,84,29,998.48/- [Rupees Two Crores Eighty Four Lakhs Twenty Nine Thousand Nine Hundred Ninety Eight and Forty Eight paisa only] from the revision petitioner/ nationalized bank towards their business on execution of necessary security including hypothecation of working capital, namely, stock-in-trade and trade receivables etc. and they alleged to have cheated the petitioner in the repayment of the loan by committing criminal breach of trust.

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7. It is also revealed from the record that the 5th respondent, viz, the Inspector of Police, District Crime Branch, Virudhunagar, had conducted a preliminary enquiry and submitted a report stating that, the respondents 1 to 3 had availed a loan to the tune of Rs. 2,50,00,000/- from the bank of the revision petitioner by morgaging their immovable properties with it and due to loss in the business, they were unable to repay the entire loan. The said report further discloses that the transaction covered under the revision petition is civil in nature as per the opinion of the Assistant Director of Prosecution, Directorate of Prosecution, and that an alternative remedy for recovery of the loan is available to the revision petitioner Bank by invoking the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002.

8. Therefore, the factum of availing the loan by Respondents 1 to 3 from the revision petitioner Bank herein by executing necessary documents as security is also not in dispute.

9. The tendency in business circles to convert purely civil disputes into criminal cases cannot be entertained, and an attempt to settle civil disputes and claims, which do not involve any criminal offence,

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by applying pressure through criminal prosecution should be deprecated and discouraged, as per the principles laid down by the Hon'ble Supreme Court of India in the case of ***M/s. Indian Oil Corporation v. M/s. NEPC India Limited,*** reported in ***2006 (6) SCC 736.***

10. Further, by considering the said principles, it is relevant to refer to the following judgments:

i) In ***G.Sagar Suri vs. State of Uttar Pradesh*** reported in ***2000(2) SCC 636***, the Hon'ble Supreme Court observed that "*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.*"

(ii) 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.*"

(iii) In ***Rajagu vs The Stae of Tamil Nadu [Crl.RC(MD)No.533 of 2025, dated 04.08.2025],*** this Court has observed as follows:

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"As rightly observed by the learned Judicial Magistrate, there existed civil dispute between the petitioner and the third respondent and the petitioner by implicating the Sub-Registrar, Advocate and witnesses to the document, appears to be attempting to give a criminal colour to a civil case, thereby blackmailing the third respondent. Considering the above, the impugned order dismissing the petition filed under Section 156(3) Cr.P.C., by the learned Judicial Magistrate cannot be found fault with."

11. As admitted by the petitioner, the lending of the loan was upon execution of necessary documents as security. It is also revealed that the Respondents1 to 3 had availed the said loan on the strength of mortgaging their immovable properties. Thus, the revision petitioner, being a nationalized bank, is having a right of redressal by invoking the right conferred under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, against Respondents 1 to 3 in respect of the alleged loan. It is a settled principle of law that the process of criminal law cannot be applied when a dispute is purely civil in nature.

12. On cumulative analysis, this Court is unable to find any error in the view taken by the learned Judicial Magistrate concerned, holding

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that a direction under Section 156(3) of Cr.P.C. is unwarranted in the present case. Moreover, there is no perversity or illegality in the aforesaid order of the learned Judicial Magistrate concerned, and this Court, being vested with criminal jurisdiction, is inclined to hold that the order of the learned Judicial Magistrate No.II, Virudhunagar, is sustainable in law.

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

16-09-2026

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
Nsr/CM

To:

1.Judicial Magistrate Court No.2, Virudhunagar.

2.The Superintendent of Police
Virudhunagar District.

3.Inspector Of Police
District Crime Branch Police Station
Virudhunagar District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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N.GUNASEKARAN. J.,

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