

**IN THE COURT OF DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
THIRUKALUKUNDRAM.**

PRESENT: S.VINEETH, B.A.,B.L(HON'S)

**DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
THIRUKALUKUNDRAM.**

Criminal Miscellaneous Petition No: 535/2026

S. Mariasanthanakumar

...Petitioner

versus

**The Inspector of Police,
Mamallapuram Police station.**

... Respondent.

and

1) S.Usman

2) T.A.S. Farook.

... Accused

This petition came up for final hearing on 25.05.2026 in the presence of learned advocate Mr. Rajakumar, counsel for petitioner and Grade-1 Additional Public Prosecutor and upon perusal of all the material records and upon hearing rival Submissions this court delivers the following

ORDER

1. This petition is filed u/s 175(3) of Bharathiya Nagarik Suraksha Sanhita, 2023, by the petitioner praying before this court to direct the respondent Police to conduct and inquiry and file a First Information report against the accused.

2. THE BRIEF OF CONTENTIONS FILED BY THE PETITIONER:

2.1. It is submitted by the petitioner that the said accused Usman and Farook were known to him for the past 15 years, and that upon such trust and acquaintance, both the accused approached the petitioner in 2021 claiming urgent financial necessity and the petitioner upon good faith, on 24.01.2021 provided a cash loan of Rs.3,00,000/- to

the accused at Mamallapuram. It is further submitted by the petitioner that the accused executed a undertaking bond (loan agreement) acknowledging the debt and also agreed to pay an interest of 3% per month whenever demanded by the petitioner.

2.2. It is further submitted by the petitioner that initially the accused maintained a semblance of honesty by paying monthly interest for a period of six months totalling Rs.54,000/- and also paid Rs.9000/-. It is submitted by the petitioner that after that payment of Rs.9000/- the accused completely stopped paying the interest and principal amount and when the petitioner demanded for the first time, both the accused sought a grace time of six months for which the petitioner also agreed. Even after lapse of six months considering the marriage expense of daughter of the accused the petitioner showed leniency and waited.

2.3. It is further submitted by the petitioner that the petitioner himself has borrowed the said money from one Mr.Irudayasamy for lending an helping hand to the accused and as the accused failed to repay, the petitioner was under tremendous pressure from his creditors and hence the petitioner had to pledge his gold jewels at Tamilnadu Mercantile Bank and obtained a loan of Rs.5,00,000/-. It is further submitted by the petitioner that during the month of August 2024, both the accused promised the petitioner via phone to settle the entire dues within the 15 days but they failed to repay the loan.

2.4. It is further submitted by the petitioner that in the month of December 2024, due an medical emergency in the petitioner's family, he was in urgent need of funds for which the petitioner approached the accused person's Shop and demanded to repay at

least a part the loan that they have borrowed but both the accused neglected to repay the loan amount. It is further contended by the petitioner that the demeanor of both the accused persons changed and they started to using filthy words and unparliamentary languages to abuse the petitioner in public. It is also submitted by the petitioner that both the accused physically assaulted the petitioner and pushed him down and forcefully evicted him from the premises and threatened the petitioner of life and dire consequences if he approached the accused for repayment of money they borrowed. It is submitted by the petitioner that both the accused persons did not have any intention to repay the money that they borrowed and has cheated the petitioner.

2.5. It is submitted by the petitioner that having been cheated and physically assaulted by the accused, he approached the Mamallapuram Police Station on 17.12.2024, and submitted a detailed written complaint narrating the entire sequence of events the fraud and criminal intimidation. But the respondent Police has neglected to register the First Information Report despite receiving a written complaint and also failed to take any steps to investigate the matter or arrest the accused. The petitioner further submitted that as there was no progress he sent a formal representation on 06.01.2025 to the Superintendent of Police, Chengalpattu and after receiving due acknowledgment from the District Police Office, the respondent police has failed to register the case and hence aggrieved by the act of the respondent police the petitioner has approached this court for direction to direct the police to register FIR.

3. Upon receipt of the petition notice was duly served to the learned Assistant Public Prosecutor and the respondent Police, for reply. But even after sufficient chances the

respondent police failed to file a reply and hence the reply was dispensed with by this court.

4. POINT FOR DETERMINATION:

The point for determination is whether to allow this petition or not?

5. DISCUSSION:

5.1. It is the case of the petitioner that the both the accused 1) Usman and 2) Farook obtained a hand loan of Rs.3,00,000/- from the petitioner during the year 2021 for an rate of Interest at 3% per month and has failed to repay the said loan. Whenever the petitioner approached both the accused they sought time and never intended to repay the loan. In the year 2024 when the petitioner approached the accused they physically assaulted him and threatened of dire consequences and life and hence the petitioner has approached the Respondent Police to register an FIR but the respondent police failed to register the case.

5.2. The petitioner herein submitted four documents in support of his contention which are Complaint given to the Respondent Police in writing dated 17.12.2024, representation made to the SP of Police, Chengalpattu dated 06.01.2025, The loan Jewelry receipt dated 06.05.2024, and the aadhar card of the petitioner.

5.3. It is pertinent to note that it is the case of the petitioner that he has given loan to the accused on 24th of January, 2021 and has also received a loan agreement from the accused, but the petitioner herein has failed to submit the said document before this court. It is also pertinent to note that the there was no material evidences placed before this court to elucidate a prima facie case was made out. There was no

evidences submitted before this court to prove that any assault was made against the petitioner by the accused and neither he filed any medical records to show that he was been physically assaulted.

5.4. It is very essential to note that the petitioner stated that he was also threatened by the accused but no proper evidence was adduced before this court to prove the said Incident. It is been clearly observed by the Hon'ble High Court of Madras in the case of **PRAVEEN RAJESH v. COMMISSIONER OF POLICE [CrI.O.P.No.8708 of 2022]** has clearly stated that the Magistrate cannot act like a post office and *direct for registration of FIR*. Registering *FIR* is not an ordinary thing. It will affect the rights of the individual and even some times, it will destroy the carrier of the people". In the present case, this court is of the opinion that the petitioner has orally stated the facts and circumstances without relying upon material evidences to establish a prima facie case.

5.5. It is also pertinent to note that the petitioner has given an complaint in written before the respondent police in the year 2025 and given an representation before the Superintendent of Police, Chengalpattu in the year 2025 and has filed this petition before this court in the year 2026 and there was enormous delay.

5.5. It is also pertinent to note that the allegations leveled against the accused is clearly of a civil nature and the court is of the opinion that the petitioner is trying to give a criminal colour to a civil dispute. In the case of **Govind Prasad Kejriwal vs State of Bihar, [2020 SCC ONLINE SC 114]**, the Honourable Supreme court of India has dictated that " Magistrate is required to consider whether even a prima facie

case is made out or not and whether the criminal proceedings initiated are an abuse of process of law or the court or not and/or whether the dispute is purely of a civil nature or not and/or whether the civil dispute is tried to be given the colour of criminal dispute or not”. In the present case there was no prima facie established, no evidences adduced to support the claim of physical assault or criminal intimidation and it is clear that the petitioner herein is trying to establish a criminal colour to a civil dispute. Hence this court is of the opinion that there is no requirement of directing the respondent police to register an FIR against the accused and hence this petition is liable to dismissed.

6. RESULT:

In the limelight of the above discussions and reasons, this court is inclined to dismiss the petition. In result this petition is dismissed.

Typed by me in my personal laptop computer, corrected and pronounced by me in the open court on the 10th day of July, 2026.

(Sd)
**District Munsif cum Judicial Magistrate,
Thirukalukundram.**

List of evidences and witness:

-Nil-

(Sd)
**District Munsif cum Judicial Magistrate,
Thirukalukundram**

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