

IN THE COURT OF THE JUDICIAL MAGISTRATE -II, ERODE.

**Present : Thiru.S.Rajkumar, B.A.,B.L.,
Judicial Magistrate -II, Erode.**

Monday the 23rd day of March - 2026

Cr.M.P.No.3394/2025

T. Paramasivam (68),

S/o.Thambannan,

D.No.21/26, Periyanna street,

Near Kalaimagal school,

Erode – 638 001.

.... Complainant

/Vs/

Vijayakumar (50),

S/o.Ganesan,

Easwaran kovil street,

Theppakulam street,

Erode – 638001.

.... Accused.

This petition coming on 23.03.2026 for final hearing before me in the presence of Mr.G.Kalaivanan, B.A., L.L.B., Advocate for the petitioner and perusal of the documents, this court delivering the following:

ORDER

1. Heard the counsel for petitioner and perused the materials placed on record. The Petitioner has filed his affidavit in support of the allegations made in the Petition. On perusal of records, section 173(4) BNSS has been complied with by the Petitioner.

2. It is stated in the affidavit of the Petition that, the petitioner who is the Trustee of the Sri Angala amman Temple and also the petitioner running a Chit on the behalf of Sri Angala amman Temple. The accused joined two chits each chit of Rs. 1,00,000/-. The accused bids the two chits as the 3rd and 4th chit respectively. After that the accused cheated the petitioner by not paying the chit amount. In this stage on 08.09.2023 the petitioner asking the accused for non payment of chit amount. The accused threatening the petitioner, and stating that if you asking chit amount, I will kill you and your family members. In this regard the petitioner gave a complaint to the Superintendent of police, but the concern police has not taken any action in the complaint. Hence he seeking direction to register the case against the accused.

3. In Lalitha Kumari case, the Hon'ble supreme Court of India has held that if the criminal Petition discloses a cognizable offence, the investigation shall commence with registration of FIR, however, exception to this, in respect of following matters,

- a) family/matrimonial disputes,
- b) commercial offences,
- c) medical negligence cases,
- d) cases where there is abnormal delay/latches in initiating criminal prosecution, for example over 3 month delay, preliminary inquiry is envisaged prior to registration of FIR.

4. On going through the allegations contained in the complaint which was given to the superintendent of police and affidavit filed by the petitioner it

discloses that the accused has not pay the chit amount and also threatening the petitioner. The occurrence happened in the year of 2023. This complaint filed by the petitioner in the year of 2025. Further non payment of Chit amount is not create any criminal colour. Therefore the dispute between the petitioner and accused is purely civil in nature.

5. Further it is settled law that this court, while exercising power under 175(3) BNSS, 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.

6. In Mitesh Kumar J Sha vs The State Of Karnataka, AIRONLINE 2021 SC 936, 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. As per the above said apex court judgment is squarely apply to this case. Therefore there is no prima facie case is made out. Hence this **petition is dismissed in accordance with law.**

This order is dictated by me to typist and corrected and pronounced by me in open court on this 23rd day of March 2026.

Judicial Magistrate -II,
Erode.