

**IN THE COURT OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUVALLUR**

**PRESENT: Tmt S. TASNEEM, M.L.,
I Additional District and Sessions Judge, Tiruvallur**

Monday, the 27th day of April, 2026

Criminal Revision Petition No.2/2026

**As against
The Order of the Judicial Magistrate No.I, Tiruvallur in
CMP No. 4389/2025 dated 01.12.2025**

Kishorekumar

.....Petitioner/defacto complainant

/Vs/

1. The State represented by
The Superintendent of Police ,
Tiruvallur
2. The Deputy Superintendent of Police,
Tiruvallur
3. The Inspector of Police,
Tiruvallur Town Police station

....Respondents/Complainant

This petition was coming on 22.04.2026 in the presence of M/s S.K. Adam, T. Rajan, Sathyasrinivasulu, S. Jothi, Advocate for the Revision petitioner and Mr.C.Ravichandran, Learned Additional Public Prosecutor appearing on behalf of State and the respondents upon perusing the petition and the endorsement made by the Special Public Prosecutor, and upon hearing both sides, perusing the records and materials , this Court made the following....

ORDER

This petition is filed under section 438 BNSS 397 of Cr.P.C. to set aside the order of the Judicial Magistrate No.I, Tiruvallur in CMP No.4389/2025 dated 01.12.2025.

2. The revision petitioner herein is the petitioner/defacto complainant in respect of CSR No.796/2025 on the file of the 3rd respondent. The complaint was lodged by the revision petitioner u/s 175(3) of BNSS seeking direction for registration of FIR as against three persons, for the offences of criminal trespass and intimidating the complainant.

3. The case of the petitioner is that the land in S.No.215/5A and 215/5B of 66 cents land belongs to him and his brother Jayaprakash and they are in possession of the same. While so, on 09.05.2025, at about 4.30 PM, two persons namely Jayashree and Balu were taking photographs near their lands and when they along with one advocate who is a nearby resident went and asked, at that they informed that they are the outsourcing staff of Survey Department of WAKF Board. When the revision petitioner informed that they had injunction order in OS.14/2021 and also the order of RDO, they left the place. On 12.05.2025, one Jayashree, Kirubadevi along with some Muslim people were surveying their land without any prior notice. When they enquired, and objected, they informed that they had no orders for survey. Thus, the survey made by them is a criminal trespass. When the public gathered, they escaped from the place. Even though, they filed complaint and the 3rd respondent registered CSR 796/2025, no action is taken, hence, seeks direction to register FIR.

4. The trial court after considering the objections from the respondent dismissed the said petition in CMP No.4389/2025 vide order dated 01.12.2025, thereby rejecting complaint to register the FIR.

5. Having aggrieved over the dismissal order of the trial Court, the petitioner has filed this revision u/s 438 of BNSS on the following grounds :

- (i) The order passed by the trial court is contrary to the law.
- (ii) The trespass made by the persons Jayashree, Balu and Kirubavathy on 09.05.2025 and thereafter on 12.05.2025 is a clearly case of criminal trespass
- (iii) The learned Judicial Magistrate failed to appreciate the point that any person nominated by any authority should not be permitted to measure the property without any valid permission or authorization. No authorization or permission has been issued or produced for measuring the property
- (iv) The learned Judicial Magistrate failed to appreciate that the land stands in the name of the revision petitioner, but failed to appreciate the facts and the petitioner herein acquired the property by valid title deeds and mutated all necessary revenue records in their name.
- (v) The judicial Magistrate also failed to appreciate that as per the orders of the RDO, Tiruvallur in Na.Ka.NO.743/20217 dated 29.07.2021 and passed final orders on merits on 17.11.2021 and by its final order on 30.05.2023 vide proceedigns No. Na.Ka.No.3931/2023/A1 concluding that the revision petitioner and his brother D. Kishorekumar are the real title holders of the

properties, which was also confirmed by the District Collector, vide proceedings dt. 03.02.2025 in Na.Ka.No.2896495/2025/MN1. Thus, survey of the land without any prior permission is illegal.

- (vi) When the suit in OS.14/2021 is pending before Tamil Nadu WAKF Tribunal, the act of surveying the land by Jayashree, Balu and Kirubavathi over the same is unwarranted and unnecessary and a clear trespass

Hence, prayed to set aside the order of the trial court in CMP NO.4389/2025 dated 01.12.2025 and direct the respondent to register the FIR in respect of the complaint of the revision petitioner in CSR No.796/2025 .

6. On the other hand, the learned Additional Public Prosecutor appearing for the respondent submitted that the investigation made by the 3rd respondent reveals that the survey of the land is only made by the persons nominated by WAKF Board and there is no imminent threat to the petitioner. Hence, prayed to dismiss the revision.

7. No oral or documentary evidence adduced by both side in this petition.

8. Now, the points for consideration is

- 1 **Whether the petitioner has made out grounds for order for registration of FIR as sought for ?**
- 2 **Whether this Criminal revision is to be allowed ?**

9. POINTS :

Heard both sides .

This Criminal Revision is preferred by the petitioner / defacto complainant in respect of CSR No.796/2025 on the file of the 3rd respondent.

10. On perusal of the orders of the trial Court, it is observed by the learned Judicial Magistrate No.I, Tiruvallur that the attempt made by the persons does not amount to criminal trespass. Also the alleged threat of dire consequences is not shown to have created imminent fear on the petitioner. Moreover, on perusal of the report filed by the respondents, it is known that the said persons were nominated by WAKF Board, hence, there is no prima facie case made out for cognizable offence, thus dismissed the petition u/s 175(3) of BNSS.

11. On perusal of the complaint lodged by the revision petitioner, he has stated that on 09.05.2025, three persons namely Jayashree, Balu and Kirubavathi to survey the land in S.No.215/5A and 215/5B situated at Thalakkancherry village, Tiruvallur Taluk. When they objected and questioned them, they left the place and thereafter again on 12.05.2025, they tried to survey the land without any authority. The learned Judicial Magistrate No.I, Tiruvallur rejected the complaint based on the fact that the persons who allegedly trespassed into the land of the revision petitioner is nominated by WAKF Board. However, no such order for survey of the land is produced by the said persons.

12. The learned counsel for the petitioner argued that when the title of the revision petitioner was declared as per the proceedings of the RDO dated 29.07.2021 which was also confirmed by the District Collector, Tiruvallur in

03.02.2025, the attempt made by the three persons amounts to criminal trespass. Per contra, the report of the 3rd respondent is that the persons who attempted to survey the land were the authorized persons of WAKF board and there is no necessity to register the FIR as there was no criminal trespass and thus, the revision petitioner is trying to convert the civil dispute as criminal proceedings.

13. The complaint clearly disclosed an attempt of trespass into the lands of the revision petitioner on 09.05.2025 and on 12.05.2025. It is not the case of the respondents that the said persons who came to the land of the revision petitioner had produced any order for survey of land by WAKF Board. Though they claim that they are authorized surveyors, the petitioner states that no order authorizing them was produced, thus, the attempt of survey is criminal trespass.

14. It is settled law that criminal proceedings should not be thwarted at the initial stage and the police should be allowed to investigate into the matter and to submit a Final Report, when there are prima facie materials against the accused as held by Hon'ble Apex Court in its authority in (2021) 19 SCC 401 (*Neeharika Infrastructure Pvt. Ltd. v State of Maharashtra*), wherein it is held that

“a balance has to be struck between the rights of the genuine complainants and the FIRs disclosing commission of a cognizable offence and the statutory obligation/duty of the investigating agency to investigate into the cognizable offences on the one hand and those innocent persons against whom the criminal proceedings are initiated which may be in a given case abuse of process of law and the process. However, if the facts are hazy and the investigation has just begun, the High Court would be circumspect in exercising such powers and the High Court

must permit the investigating agency to proceed further with the investigation in exercise of its statutory duty under the provisions of the Code. Even in such a case the High Court has to give/assign brief reasons why at this stage the further investigation is required to be stayed. The High Court must appreciate that speedy investigation is the requirement in the criminal administration of justice”

15. When the petitioner disclose valid title which was even confirmed by the order of the District Collector, the alleged attempt of survey of the land on two occasions, i.e. on 09.05.2025 and 12.05.2025 without notice is unacceptable, which constitutes prima facie for trespass. Thus, as per the dictum of the Hon’ble Apex Court in 2014(2) SCC 1 (*Lalita Kumari Vs. Government of UP*) registration of FIR is mandatory when the complaint discloses a cognizable offence.

16. Even it is quoted by the order of the trial Court that the alleged accused persons entered the petitioner’s property and attempted to measure the same, which clearly establishes unauthorized survey and also prima facie for “criminal trespass” as the offence of criminal trespass is complete when a person enters into a property in possession of another person without consent or with the intention to annoy or intimidate.

17. The observation made by the leaned Judicial Magistrate No.I, Tiruvallur that persons were WAKF Board surveyors is flawed. At the stage of 156(3) Cr.P.C., the court cannot consider the defene version or rely upon the explanations to reject the complaint. Thus, conducting mini trial based only on the enquiry of the respondent is contrary to the settled principles. The law only

requires intention to cause alarm but the trial court insisted on proof rather than prima facie.

18. It is too well settled that the first information report is only an initiation to move the machinery and to investigate into a cognizable offence and, therefore, while exercising the power and deciding whether the investigation itself should be thwarted, utmost care should be taken by the court and at that stage, it is not possible for the court to sift the materials or to weigh the materials and then come to the conclusion one way or the other. When the revision petitioner alleged the alleged trespass on two occasions, the observations by the learned Judicial Magistrate that there is no prima facie is not acceptable.

19. At the stage of complaint, it is enough if the police officer on the basis of the information given suspects the commission of a cognizable offence, and not that he must be convinced or satisfied that a cognizable offence has been committed. If he has reasons to suspect, on the basis of information received, that a cognizable offence may have been committed, he is bound to record the information and conduct an investigation. At this stage it is also not necessary for him to satisfy himself about the truthfulness of the information. It is only after a complete investigation that he may be able to report on the truthfulness or otherwise of the information. Similarly, even if the information does not furnish all the details he must find out those details in the course of investigation and collect all the necessary evidence. The information given disclosing the commission of a cognizable offence only sets in motion the investigative

machinery, with a view to collect all necessary evidence, and thereafter to take action in accordance with law. The true test is whether the information furnished provides a reason to suspect the commission of an offence, which the police officer concerned is empowered under Section 175 of BNSS to investigate.

20. On perusal of the complaint, it clearly disclose the prima facie case of “trespass”. The merits of the case as to whether the alleged attempt is an offence or not is not the matter of registering the FIR. Even though the investigating Agency has stated that the said persons are authorized surveyors, no order is produced. Hence, the impugned order of the Judicial Magistrate, denying registration of FIR is unwarranted and deserves to be set aside.

In the result, this Criminal Revision is allowed. The order passed by the Judicial Magistrate No.I, Tiruvallur in CMP No. 4389/2025 dated 01.12.2025 is set aside. The 3rd respondent is directed to register the First Information Report in respect of CSR No.796/2025, further investigate and file the Final report if required in accordance with law.

Dictated by me to the Steno-typist, Directly typed by her in computer, corrected and pronounced by me in the open court on the 27th day of April, 2026

**I ADDITIONAL SESSIONS JUDGE,
TIRUVALLUR**