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CRL OP No. 16195 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-07-2026

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

CRL OP No. 16195 of 2023

& CRL MP Nos. 10210 & 10211 of 2023

1. Vivekananthan @ Vivek

2. Karthik

..Petitioner(s)

Vs

1. State by,
The Inspector of Police,
Thiruvannamalai East Police Station,
Thiruvannamalai District,
Crime No. 707 of 2021.

2. Parthasarathy

..Respondent(s)

Prayer: The Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in PRC No. 52 of 2022 on the file of the Judicial Magistrate 2, Tiruvannamalai and quash the charge sheet pending against the petitioners.

For Petitioner(s):

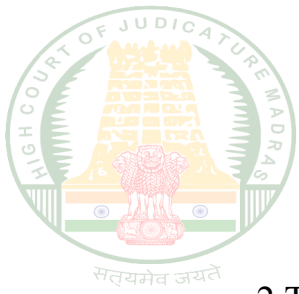
Mr.A.Mir Hassan Abbas

For Respondent(s):

Mr. A. Amarnath,
Counsel for Government of Tamil Nadu
(Criminal Side)

ORDER

The petition seeks to quash the impugned final report registered for the offence under Section 399 IPC.

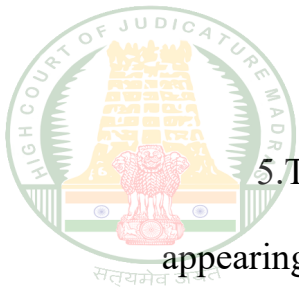


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2.The gist of the allegation is that the petitioners, who are arraigned as A1 and A2, along with three others, were found in possession of knives and iron rods and when intercepted, they had confessed to the police officials that since they were involved in a murder case and were unable to effectively defend themselves for want of money, they were preparing for committing dacoity and thus committed the aforesaid offence.

3.The learned counsel for the petitioner would submit that the case against the co-accused was quashed by this Court in Crl.O.P.No.9155/2023, since no weapons were found in their possession and also since there was no legal evidence to proceed against the petitioners therein for the offence under Section 399 IPC.

4.The learned counsel further pointed out to another order of this Court in Crl.O.P.No.33746 of 2019, wherein, this Court had held that mere possession of weapons, without any other evidence to infer preparation for dacoity, would not attract the offence under Section 399 IPC and submitted that in the instant case, there is no acceptable legal evidence, except for the confession of the accused that they were planning to commit dacoity.



5. The learned counsel for Government of Tamil Nadu (Crl. Side) appearing on behalf of the first respondent submitted that weapons such as knives and iron rods were seized from the petitioners and that though no independent witnesses were examined, the statement made to the police officials would suggest that the petitioners were making preparation to commit dacoity and the points raised by the petitioners can only be adjudicated by the trial Court.

6. This Court had perused the impugned final report which states that the petitioners, who are arraigned as A1 and A2, along with three others, were armed with knives and iron rods, for the purpose of committing dacoity. The final report cites six witnesses. LW1 to LW3 are Grade II Police Constables attached to Tiruvannamalai East Police Station. LW4 and LW5 are Sub Inspectors of Police and LW6 is the Inspector of Police and the investigation officer.

7. It is the case of the prosecution that LW1 and LW2 intercepted the accused during a routine surveillance and that all the accused confessed that they were planning to commit dacoity. LW3 and LW4 are witnesses to the observation mahazar prepared by the investigating officers LW5 and LW6. Thus, it could be seen that LW1 and LW2, who are police officials, have stated about the confession made to them by the accused relating to the offence. It is



needless to say that such a confession would be inadmissible in evidence.

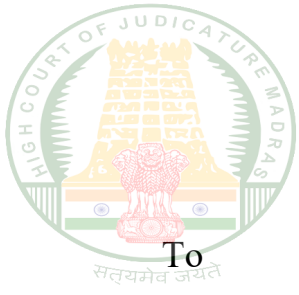
Besides, the above material, there is no other evidence to suggest that the petitioners were making preparation for committing dacoity, except for the fact that they were in possession of arms. It is not the case of the prosecution that they are liable for any other offence. Mere possession of arms could not lead to the only conclusion that the petitioners intended to commit dacoity. In the absence of any acceptable legal evidence to prosecute the petitioners for the offence under Section 399 IPC, it would be a futile exercise to allow the trial proceedings to go on. Therefore, this Court is inclined to quash the impugned proceedings.

8. Accordingly, the impugned proceedings in PRC No.52 of 2022 pending on the file of the Judicial Magistrate 2, Tiruvannamalai, is quashed and the Criminal Original Petition is allowed. Consequently, the connected criminal miscellaneous petitions are closed.

24-07-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG



To

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- 1.The Judicial Magistrate 2, Tiruvannamalai.
- 2.The Inspector of Police,
Thiruvannamalai East Police Station,
Thiruvannamalai District,
Crime No. 707 of 2021.
- 3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

TSG

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