



Crl.O.P.(MD).No.14337 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :24.01.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.14337 of 2023

A.Hariharan

... Petitioner/Defacto Complainant

Vs.

1. The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
2. The Superintendent of Police,
Central Bureau of Investigation,
No.73, Aathikulam Main Road,
Madurai-625 014.
3. The Assistant Commissioner of Police,
Palayamkottai,
Tirunelveli City.
4. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City,
(In Crime No.614 of 2022)

... Respondents/Complainants

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to transfer the Investigation in the matter relating to the Crime No.614 of 2022 from the file of the 4th Respondent and entrust the same to Respondent No. 2 for investigation of the case.



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For Petitioner : Mr.C.Mayil Vahana Rajendran

For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor,
for R1, R3 & R4

: Mr.C.Muthu Saravanan,
Special Public Prosecutor for CBI
for R2

ORDER

This petition has been filed to transfer the Investigation relating to the Crime No.614 of 2022 from the file of the 4th Respondent and entrust the same to second respondent.

2.The case of the prosecution is that the petitioner was running a hotel in the name and style of Maduram Hotels, in Tirunelveli City. On 10.04.2017, a complaint was filed before the District Consumer Forum, Tirunelveli, by one G.Natchiyar in C.C.No.79 of 2017, against Maduram Hotel and several complaints were filed against him in C.C.Nos.31, 44, 97, 128, 160, 188, 163 and 128 of 2019. The above said complaints were filed by the accused namely Mr.Bramanayagam, who is an advocate. The accused, in order to get money from the petitioner is said to have impersonated and forged the signature of the



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complainants in several complaints. The accused was in the habit of continuously doing the said mischief and threatened the petitioner. Thereafter, the petitioner gave a complaint. On the basis of the complaint given by the petitioner, the fourth respondent police registered a case in Crime No.614 of 2022, for the offences under Sections 205, 206, 419, 465 and 468 of IPC.

3.The petitioner filed a petition in W.P.(MD).No.19881 of 2022 before this Court and this Court, by order dated 26.08.2022, passed the following order:

3.In view of the submission made by the learned Government Advocate (Crl. Side), the second respondent is hereby directed to consider the petitioner's complaint, dated 28.12.2021 and to complete the enquiry within a period of four weeks from the date of receipt of a copy of this order.

4.With the above direction, this Writ Petition stands disposed of. No costs.

4.Thereafter, there was no further progress. Therefore, the petitioner filed another petition before this Court in W.P.(MD).No.7096 of 2023 and this Court by order dated 19.04.2023, passed the following order:



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5.Recording the submission of the Additional Public Prosecutor, there shall be a direction to the third respondent to complete the investigation and file the final report before the concerned Court within a period of five months from the date of receipt of a copy of this order and the Assistant Commissioner of Police, Pallayankottai, is directed to monitor the investigation.

Again, there was no action. Hence, the petitioner filed the present petition to transfer the case.

5.This case was posted before this Court on 08.08.2023. This Court considered the submission of the learned Additional Public Prosecutor and passed the following order:

On 19.04.2023, this Court passed the following order:-

“5.Regarding the submission of the Additional Public Prosecutor, there shall be a direction to the third respondent to complete the investigation and file the Final Report before the concerned Court within a period of five months from the date of receipt of a copy of this order and the Assistant Commissioner of Police, Pallayankottai, is directed to monitor the investigation.”

2.The case of the petitioner is that after the above



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direction, the fourth respondent has not completed the investigation. The same was not also properly supervised by the third respondent. So, the petitioner filed this petition to transfer the investigation.

3.In the above circumstances, the fourth respondent is hereby, directed to appear and file counter regarding the progress of the investigation and the third respondent is directed to file counter regarding the supervision conducted by him as per the order of this Court, dated 19.04.2023, in the progress of the investigation in Crime No.614 of 2022 on the file of the fourth respondent.

*4.Post this matter on **21.08.2023**.*

5.In the mean time, the learned Government Advocate (Crl.Side) directed the fourth respondent to appear before this Court.

6.Thereafter, this Court adjourned the matter for updating the progress of the investigation. At that time, the learned Additional Public Prosecutor, on instructions, submitted that absconding charge sheet was filed. In the absconding charge sheet, it is made clear that the investigation was completed by the investigating officer. This Court, issued subsequent direction to supervise the investigation in the manner known to law. Further, according to the petitioner, the accused is the advocate and forged the signature of the complainants and



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made a false complaints against the petitioner. Further, in this case, the investigation is not done as per law. The investigating officer in spite of the direction of this Court, has not even obtained the signature of the accused and also not taken any steps to arrest the accused and to obtain the specimen signature from the accused and get handwriting expert's opinion and no witness was examined to prove whether the signature of the accused is found in the forged document. The investigation was on sided. It is fundamental that in the case of the forgery investigation has to be conducted to prove the forgery apart from the scientific method. Merely because accused is advocate, this court cannot expect this kind of shoddy investigation at the hands of the investigation officer, that too when this court specifically directed to conduct fair investigation. Therefore, the final report filed by the investigation officer has no value at all. In this case, this court finds every reason to exercise the inherent power under section 482 of Cr.P.C. to order 'denovo investigation' .

7.Now the question is whether this Court has power to order 'denovo investigation' at this stage of taking cognizance in C.C.No.99 of 2024 on the file of the Learned Judicial Magistrate No.I, Tirunelveli under Section 482 Cr.P.C inherent jurisdiction?



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8.The Hon'ble Supreme Court in the case of ***Vinay Tyagi Vs. Irshad Ali @ Deepak and others*** reported in **2013 (5) SCC 762** answered the above question in affirmatively the following terms:-

23. *However, in the case of a “fresh investigation”, “reinvestigation” or “de novo investigation” there has to be a definite order of the court. The order of the court unambiguously should state as to whether the previous investigation, for reasons to be recorded, is incapable of being acted upon. Neither the investigating agency nor the Magistrate has any power to order or conduct “fresh investigation”. This is primarily for the reason that it would be opposed to the scheme of the Code. It is essential that even an order of “fresh”/“de novo” investigation passed by the higher judiciary should always be coupled with a specific direction as to the fate of the investigation already conducted. The cases where such direction can be issued are few and far between. This is based upon a fundamental principle of our criminal jurisprudence which is that it is the right of a suspect or an accused to have a just and fair investigation and trial. This principle flows from the constitutional mandate contained in Articles 21 and 22 of the Constitution of India. Where the investigation ex facie is unfair, tainted, mala fide and smacks of foul play, the courts would set aside such an investigation and direct fresh or de novo investigation and, if necessary, even by*



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another independent investigating agency. As already noticed, this is a power of wide plenitude and, therefore, has to be exercised sparingly. The principle of the rarest of rare cases would squarely apply to such cases. Unless the unfairness of the investigation is such that it pricks the judicial conscience of the court, the court should be reluctant to interfere in such matters to the extent of quashing an investigation and directing a “fresh investigation”.

24. In Manu Sharma v. State (NCT of Delhi) [(2010) 6 SCC 1 : (2010) 2 SCC (Cri) 1385] (SCC p. 80, para 199), the Court stated that it is not only the responsibility of the investigating agency, but also that of the courts to ensure that investigation is fair and does not in any way hamper the freedom of an individual except in accordance with law. An equally enforceable canon of the criminal law is that high responsibility lies upon the investigating agency not to conduct an investigation in a tainted or unfair manner. The investigation should not prima facie be indicative of a biased mind and every effort should be made to bring the guilty to law as nobody stands above law de hors his position and influence in the society. The maxim contra veritatem lex nunquam aliquid permittit applies to exercise of powers by the courts while granting approval or declining to accept the report.

28. The next question that comes up for consideration of this Court is whether the empowered Magistrate has the jurisdiction to direct “further investigation” or “fresh investigation”. As far as the latter is concerned, the law declared by this Court consistently is that the learned Magistrate has no



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jurisdiction to direct “fresh” or “de novo” investigation. However, once the report is filed, the Magistrate has jurisdiction to accept the report or reject the same right at the threshold. Even after accepting the report, it has the jurisdiction to discharge the accused or frame the charge and put him to trial. But there are no provisions in the Code which empower the Magistrate to disturb the status of an accused pending investigation or when report is filed to wipe out the report and its effects in law. Reference in this regard can be made to K. Chandrasekhar v. State of Kerala [(1998) 5 SCC 223 : 1998 SCC (Cri) 1291] , Ramachandran v. R. Udhayakumar [(2008) 5 SCC 413 : (2008) 2 SCC (Cri) 631] , Nirmal Singh Kahlon v. State of Punjab [(2009) 1 SCC 441 : (2009) 1 SCC (Cri) 523] , Mithabhai Pashabhai Patel v. State of Gujarat [Mithabhai Pashabhai Patel v. State of Gujarat, (2009) 6 SCC 332 : (2009) 2 SCC (Cri) 1047] and Babubhai v. State of Gujarat [(2010) 12 SCC 254 : (2011) 1 SCC (Cri) 336] .

43. At this stage, we may also state another well-settled canon of the criminal jurisprudence that the superior courts have the jurisdiction under Section 482 of the Code or even Article 226 of the Constitution of India to direct “further investigation”, “fresh” or “de novo” and even “reinvestigation”. “Fresh”, “de novo” and “reinvestigation” are synonymous expressions and their result in law would be the same. The superior courts are even vested with the power of transferring investigation from one agency to another, provided the ends of justice so demand such action. Of course, it is also a settled principle that this power has



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to be exercised by the superior courts very sparingly and with great circumspection.

44. We have deliberated at some length on the issue that the powers of the High Court under Section 482 of the Code do not control or limit, directly or impliedly, the width of the power of the Magistrate under Section 228 of the Code. Wherever a charge-sheet has been submitted to the court, even this Court ordinarily would not reopen the investigation, especially by entrusting the same to a specialised agency. It can safely be stated and concluded that in an appropriate case, when the Court feels that the investigation by the police authorities is not in the proper direction and that in order to do complete justice and where the facts of the case demand, it is always open to the Court to hand over the investigation to a specialised agency. These principles have been reiterated with approval in the judgments of this Court in Disha v. State of Gujarat [(2011) 13 SCC 337 : (2012) 2 SCC (Cri) 628] , Vineet Narain v. Union of India [(1998) 1 SCC 226 : 1998 SCC (Cri) 307] , Union of India v. Sushil Kumar Modi [(1996) 6 SCC 500] and Rubabbuddin Sheikh v. State of Gujarat [(2010) 2 SCC 200 : (2010) 2 SCC (Cri) 1006] .

46. The Code does not contain any provision which deals with the court competent to direct “fresh investigation”, the situation in which such investigation can be conducted, if at all, and finally the manner in which the report so obtained shall be dealt with. The superior courts can direct conduct of a “fresh”/“de novo” investigation, but unless it specifically directs



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that the report already prepared or the investigation so far conducted will not form part of the record of the case, such report would be deemed to be part of the record. Once it is part of the record, the learned Magistrate has no jurisdiction to exclude the same from the record of the case. In other words, but for a specific order by the superior court, the reports, whether a primary report or a report upon “further investigation” or a report upon “fresh investigation”, shall have to be construed and read conjointly. Where there is a specific order made by the Court for reasons like the investigation being entirely unfair, tainted, undesirable or being based upon no truth, the court would have to specifically direct that the investigation or proceedings so conducted shall stand cancelled and will not form part of the record for consideration by the court of competent jurisdiction.

48. What ultimately is the aim or significance of the expression “fair and proper investigation” in criminal jurisprudence? It has a twin purpose: Firstly, the investigation must be unbiased, honest, just and in accordance with law; secondly, the entire emphasis on a fair investigation has to be to bring out the truth of the case before the court of competent jurisdiction. Once these twin paradigms of fair investigation are satisfied, there will be the least requirement for the court of law to interfere with the investigation, much less quash the same, or transfer it to another agency. Bringing out the truth by fair and investigative means in accordance with law would essentially repel the very basis of an unfair, tainted investigation or cases of



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false implication. Thus, it is inevitable for a court of law to pass a specific order as to the fate of the investigation, which in its opinion is unfair, tainted and in violation of the settled principles of investigative canons.

8.1. In the case of ***Amar Nath Chaubey v. Union of India*** reported in ***(2021) 11 SCC 804***:

9. We are constrained to record that the investigation and the closure report are extremely casual and perfunctory in nature. The investigation and closure report do not contain any material with regard to the nature of investigation against the other accused including Respondent 5 for conspiracy to arrive at the conclusion for insufficiency of evidence against them. The closure report is based on the ipse dixit of the investigating officer. The supervision note of the Senior Superintendent of Police (Rural), in the circumstances leaves much to be desired. The investigation appears to be a sham, designed to conceal more than to investigate.

10. The police has the primary duty to investigate on receiving report of the commission of a cognizable offence. This is a statutory duty under the Code of Criminal Procedure, 1973 apart from being a constitutional obligation to ensure that peace is maintained in the society and the rule of law is upheld and applied. To say that further investigation was not possible as the informant had not supplied adequate materials to investigate, to our mind, is a preposterous



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statement, coming from the police.

11. The police has a statutory duty to investigate into any crime in accordance with law as provided in the Code of Criminal Procedure. Investigation is the exclusive privilege and prerogative of the police which cannot be interfered with. But if the police does not perform its statutory duty in accordance with law or is remiss in the performance of its duty, the court cannot abdicate its duties on the precocious plea that investigation is the exclusive prerogative of the police. Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of Articles 14 and 21 of the Constitution of India and this Court has the bounden obligation to ensure adherence by the police.

8.2. In the case of **Manohar Lal Sharma v. Union of India** reported in (2014) 2 SCC 532 has held as follows:

“24. In the criminal justice system the investigation of an offence is the domain of the police. The power to investigate into the cognizable offences by the police officer is ordinarily not impinged by any fetters. However, such



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power has to be exercised consistent with the statutory provisions and for legitimate purpose. The courts ordinarily do not interfere in the matters of investigation by police, particularly, when the facts and circumstances do not indicate that the investigating officer is not functioning bona fide. In very exceptional cases, however, where the court finds that the police officer has exercised his investigatory powers in breach of the statutory provision putting the personal liberty and/or the property of the citizen in jeopardy by illegal and improper use of the power or there is abuse of the investigatory power and process by the police officer or the investigation by the police is found to be not bona fide or the investigation is tainted with animosity, the court may intervene to protect the personal and/or property rights of the citizens.

25. Lord Denning [The Due Process of Law, First Indian Reprint 1993, p. 102] has described the role of the police thus:

'In safeguarding our freedoms, the police play a vital role. Society for its defence needs a well-led, well-trained and well-disciplined force of police whom it can trust : and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice.

The police, of course, must act properly. They must obey the rules of right conduct. They must not extort



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confessions by threats or promises. They must not search a man's house without authority. They must not use more force than the occasion warrants.'

26. One of the responsibilities of the police is protection of life, liberty and property of citizens. The investigation of offences is one of the important duties the police has to perform. The aim of investigation is ultimately to search for truth and bring the offender to book.

39. ... In the rare and compelling circumstances referred to above, the superior courts may monitor an investigation to ensure that the investigating agency conducts the investigation in a free, fair and time-bound manner without any external interference."

9. The Hon'ble judgment of the Supreme Court in the case of ***Amar Nath Chaubey Vs Union of India*** reported in **2021 (11) SCC 804:-**

"Once the conscience of the court is satisfied, from the materials on record, that the police has not investigated properly or apparently is remiss in the investigation, the court has a bounden constitutional obligation to ensure that the investigation is conducted in accordance with law. If the court gives any directions for that purpose within the contours of the law, it cannot amount to interference with investigation. A fair investigation is, but a necessary concomitant of articles 14 and 21



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of the constitution of India and this court has the bounden obligation to ensure adherence by the police”.

10. Apart from that, the Hon'ble Supreme Court after considering the relevant provision of the Criminal Procedure Code laid down the principle that even in the case of the final report filed and cognizance taken cases, further investigation could be ordered in the interest of the justice. The relevant portion of the judgment the Hon'ble Supreme Court in ***State Through Central Bureau of Investigation Vs. Hemendhra Reddy and Another*** reported in ***2023 SCC OnLine SC 515***.

83. We may summarise our final conclusion as under:

(i) Even after the final report is laid before the Magistrate and is accepted it is permissible for the investigating agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8) of the CrPC after the final report submitted under Section 173(2) of the CrPC has been accepted.

(ii) Prior to carrying out further investigation under Section 173(8) of the CrPC it is not necessary that the order accepting the final report should be reviewed, recalled or quashed.

(iv) Further investigation is merely a continuation of the earlier investigation, hence it cannot be said that the accused are being subjected to investigation twice over. Moreover, investigation



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cannot be put at par with prosecution and punishment so as to fall within the ambit of Clause (2) of Article 20 of the Constitution. The principle of double jeopardy would, therefore, not be applicable to further investigation.

(v) There is nothing in the CrPC to suggest that the court is obliged to hear the accused while considering an application for further investigation under Section 173(8) of the CrPC.

10.1. *Vinubhai Haribhai Malaviya v. State of Gujarat* reported in (2019) 17 SCC 1.

“42. There is no good reason given by the Court in these decisions as to why a Magistrate's powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while concomitantly, the power of the police to further investigate the offence continues right till the stage the trial commences. Such a view would not accord with the earlier judgments of this Court, in particular, Sakiri [Sakiri Vasu v. State of U.P., (2008) 2 SCC 409 : (2008) 1 SCC (Cri) 440] , Samaj Parivartan Samudaya [Samaj Parivartan Samudaya v. State of Karnataka, (2012) 7 SCC 407 : (2012) 3 SCC (Cri) 365] , Vinay Tyagi [Vinay Tyagi v. Irshad Ali, (2013) 5 SCC 762 : (2013) 4 SCC (Cri) 557] , and Hardeep Singh [Hardeep Singh v. State of Punjab, (2014) 3 SCC 92 : (2014) 2 SCC (Cri) 86] ; Hardeep Singh [Hardeep Singh v. State of Punjab, (2014) 3 SCC 92 : (2014) 2 SCC (Cri) 86] having clearly held that a criminal trial does not begin after



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cognizance is taken, but only after charges are framed. What is not given any importance at all in the recent judgments of this Court is Article 21 of the Constitution and the fact that the Article demands no less than a fair and just investigation. To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases midway through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h) and Section 173(8) CrPC, as has been noticed hereinabove, and would be available at all stages of the progress of a criminal case before the trial actually commences. It would also be in the interest of justice that this power be exercised suo motu by the Magistrate himself, depending on the facts of each case. Whether further investigation should or should not be ordered is within the discretion of the learned Magistrate who will exercise such discretion on the facts of each case and in accordance with law. If, for example, fresh facts come to light which would lead to inculcating or exculpating certain persons, arriving at the



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truth and doing substantial justice in a criminal case are more important than avoiding further delay being caused in concluding the criminal proceeding, as was held in Hasanbhai Valibhai Qureshi [Hasanbhai Valibhai Qureshi v. State of Gujarat, (2004) 5 SCC 347 : 2004 SCC (Cri) 1603] . Therefore, to the extent that the judgments in Amrutbhai Shambhubhai Patel [Amrutbhai Shambhubhai Patel v. Sumanbhai Kantibhai Patel, (2017) 4 SCC 177 : (2017) 2 SCC (Cri) 331] , Athul Rao [Athul Rao v. State of Karnataka, (2018) 14 SCC 298 : (2019) 1 SCC (Cri) 594] and Bikash Ranjan Rout [Bikash Ranjan Rout v. State (NCT of Delhi), (2019) 5 SCC 542 : (2019) 2 SCC (Cri) 613] have held to the contrary, they stand overruled. Needless to add, Randhir Singh Rana v. State (Delhi Admn.) [Randhir Singh Rana v. State (Delhi Admn.), (1997) 1 SCC 361] and Reeta Nag v. State of W.B. [Reeta Nag v. State of W.B., (2009) 9 SCC 129 : (2009) 3 SCC (Cri) 1051] also stand overruled.”

11. So, in all aspects, considering the serious allegation against the accused, who is a practicing advocate that in order to extract the money illegally from the petitioner filed false consumer complaints before the consumer forum by forging the signature of various persons which deserves meaningful investigation in order to maintain the purity in the legal profession and also to eliminate this type of advocates from the legal profession in order to protect the



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majesty of the profession. The Investigation Officer has conducted a biased, unfair investigation which resulted in miscarriage of justice. The victim's right of fair investigation also is thwarted. So, this Court to meet the ends of justice invokes the inherent power under Section 482 of Cr.P.C., to scrap the final report filed by the Investigation Officer in CrimeNo.614 of 2022 on the file of respondent Police Station, Madurai District, and the cognizance taken in C.C.No. 99 of 2024, on the file of the learned Judicial Magistrate No.I, Tirunelveli, and directs the Commissioner of Tirunelveli City, to appoint any of the Assistant Commissioner, City Crime Branch, Tirunelveli City, as a special officer to conduct the investigation and complete the investigation and file a report before this Court. It is also brought to the knowledge of this Court that similar FIR is pending against the accused in connection with this issues. Hence this court is hereby issued direction to entrust the investigation of all the FIR's with the said officer.

12. Further this Court directs the Commissioner of the Police, Tirunelveli to take necessary departmental action for his intentional omission as well as lapse committed in the course of the investigation conducted in Crime No.614 of 2022 as per the Hon'ble Supreme Court judgment noted here under :-



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12.1. In the case of ***State of Gujarat v. Kishanbhai***, reported in (2014) 5

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SCC 108:

“23..... Each erring officer must suffer the consequences of his lapse, by appropriate departmental action, whenever called for. Taking into consideration the seriousness of the matter, the official concerned may be withdrawn from investigative responsibilities, permanently or temporarily, depending purely on his culpability. We also feel compelled to require the adoption of some indispensable measures, which may reduce the malady suffered by parties on both sides of criminal litigation. Accordingly, we direct the Home Department of every State Government to formulate a procedure for taking action against all erring investigating/prosecuting officials/officers. All such erring officials/officers identified, as responsible for failure of a prosecution case, on account of sheer negligence or because of culpable lapses, must suffer departmental action. The above mechanism formulated would infuse seriousness in the performance of investigating and prosecuting duties, and would ensure that investigation and prosecution are purposeful and decisive. The instant direction shall also be given effect to within 6 months.

24.A copy of the instant judgment shall be transmitted by the Registry of this Court, to the Home Secretaries of all State Governments and Union Territories, within one week. All the Home Secretaries concerned, shall ensure compliance with the directions recorded above. The records of consideration, in compliance with



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the above direction, shall be maintained.”

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12.2. In the case of ***Bharati Tamang v. Union of India***, reported in (2013)

15 SCC 578

“When deficiency in investigation or prosecution is visible or can be perceived by lifting the veil that hereby tried to hide the realities, the Court should deal with the same with the iron hand appropriately within the framework of law.”

12.3. In the case of ***Dayal Singh v. State of Uttaranchal***, reported in (2012) 8 SCC 263:

“47.5. We hold, declare and direct that it shall be appropriate exercise of jurisdiction as well as ensuring just and fair investigation and trial that courts return a specific finding in such cases, upon recording of reasons as to deliberate dereliction of duty, designedly defective investigation, intentional acts of omission and commission prejudicial to the case of the prosecution, in breach of professional standards and investigative requirements of law, during the course of the investigation by the investigating agency, expert witnesses and even the witnesses cited by the prosecution. Further, the courts would be fully justified in directing the disciplinary authorities to take appropriate disciplinary or other action in accordance with



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law, whether such officer, expert or employee witness, is in service or has since retired.”

13.The Honourable Supreme Court in the judgments reported in **(2014) 5 SCC 108, 2013(15) SCC 578** and **2012(8) SCC 263**, has specifically issued a direction to the Subordinate Courts to take action against the Investigation Officer, who committed intentional lapse.

7.The Honourable Supreme Court in the case judgment.....issued the following guidelines, the case of the investigation is not done in a proper manner, the Court has power to issue direction to the supervising authority to take necessary action. In this case, this Court find that the above principles is applied to this case. This court inclines to issue direction to the Commissioner of Police, Tirunelveli City, to take action against the investigating officer and the Assistant Commissioner, Tirunelveli City.

13. This Criminal Original Petition stands allowed in the following terms:-

13.1. The investigation conducted in the crime No. 614 of 2022 on the file of the Inspector of Police, Palayamkottai Police Station, Tirunelveli City is not in accordance with law and hence the cognizance taken on the basis of the said final report in C.C.No.99 of 2024 on the file of the Learned Judicial Magistrate



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No.I, Tirunelveli is set aside.

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13.2. As sequel, this court directs the commissioner of Tirunelveli City, to appoint any of the Assistant Commissioner, City Crime Branch, Tirunelveli City, as a special investigating officer to conduct the investigation in the Crime number 614 of 2022 on the file of the Inspector of Police, Palayamkottai Police Station, and the connected FIRs in various crime numbers and complete the investigation and file a report before this Court on or before 27.01.2025.

13.3. Further this Court directs the Commissioner of the Police, Tirunelveli to conduct enquiry and take necessary action against the investigating officer after affording the adequate opportunity to him if necessary on or before 27.01.2025. This court hopes that the commissioner of police, Tirunelveli and the Assistant Commissioner would fairly investigate the case.

14. Reporting for compliance 28.01.2025.

24.01.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes/No

vsg

Note:Issue Order Copy On 22.11.2024.



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1. The Commissioner of Police,
Tirunelveli City,
Tirunelveli.
2. The Superintendent of Police,
Central Bureau of Investigation,
No.73, Aathikulam Main Road,
Madurai-625 014.
3. The Assistant Commissioner of Police,
Palayamkottai,
Tirunelveli City.
4. The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli City.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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