



CrI.O.P.No.848 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2025

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

CrI.O.P.No.848 of 2025

Gurusamy

... Petitioner

Vs.

1. The Inspector of Police,
Peralam Police Station,
Nannilam Taluk,
Thiruvarur District,
Crime No.148 of 2023
U/Sec 147, 294/b1, 148, 227, 342, 307, 302
r/w 341 IPC.
2. Vishva
3. Jayakumar @ Kuttiyan
4. Subramaniyan
5. Ashok Kumar
6. Suryaprakash @ Surya
7. Vijay
8. Kalaivanan
9. Suresh
10. Aravindhan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C./ 528 BNSS 2023, to set aside the order dated 07.12.2024 in Sr.No.6443 of 2024 in S.C.No.115 of 2023 passed by the Principal District and Sessions Judge, Thiruvarur and call for the records.



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For Petitioner : Mr.Abdul Rahim
For Respondent : Mr.S.Sugendran
Additional Public Prosecutor for R1

ORDER

This Criminal Original Petition is filed to set aside the order dated 07.12.2024 passed in Sr.No.6443 of 2024 in S.C.No.115 of 2023 by the Principal District and Sessions Judge, Thiruvarur.

2. Learned counsel for the petitioner submitted that the petitioner is the *de-facto* complainant in Crime No.148 of 2023 on the file of the first respondent-Police and based on the charge sheet filed by them, respondents 2 to 10 herein-A1 to A9 are facing trial in S.C.No.115 of 2023. He further submitted that the petitioner's Son Vijay, who was present during the occurrence, has not been cited as witness. As said Vijay was threatened by accused persons, fearing for his life, he remained silent and has recorded the occurrence in his cell phone and informed the same to the Investigating Officer and handed over the cell phone to him. When the petitioner requested the Investigating Officer to produce the said electronic evidence i.e., video recording as a document during trial but they have stated that no such document is available in the bundle. Therefore, the petitioner has filed a petition under Section 348 BNSS,



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praying to grant permission to present her son Vijay as a witness before the trial Court for adducing evidence to prove the case of the petitioner.

However, the trial Court rejected the petition at the admission stage itself on the ground of maintainability.

3. Learned counsel for the petitioner by referring to the judgment of the Hon'ble Supreme Court in *Manju Devi Vs. The State of Rajasthan and Another* reported in *AIR 2019 SCC 1976* submitted that even at the time of trial any document can be introduced and there is no embargo for producing the relevant document.

4. However, the decision referred by the petitioner is not applicable to the present case on hand for the reason that though in the present case, the case of the prosecution is that post-mortem was conducted and cause of death was also ascertained but the Doctor, who had conducted the post-mortem was not examined as a witness by the Investigating Officer. However, on a perusal of the charge-sheet it is seen that post-mortem was conducted.



5. On a reading of the complaint and statement recorded from the

de-facto complainant under Section 161(3) Cr.P.C, it is seen that the *de-facto* complainant has never spoken about the said disputed document either in the complaint or in her statement. None of the witnesses have spoken about the said material/document, which was relied on by the petitioner. Therefore, the trial Court has dismissed the petition.

6. It is settled principle that soon after registering the case (F.I.R), the statement recorded from the witnesses and documents collected during the investigation have to be produced before the jurisdictional Court immediately within a reasonable time. All the documents along with charge sheet have to be furnished by the jurisdictional Magistrate under Section 207 Cr.P.C to the accused, even after committing the case under Section 309 Cr.P.C, the Court of Session has to verify as to whether all the copies of the documents have been duly served and thereafter, charges have to be framed, if necessary. In the case on hand, there are no materials to show that the petitioner spoken about the disputed document either in the complaint or in her statement. Therefore, under these circumstances, the prosecution cannot introduce



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any materials or documents which were not collected during investigation and produced along with charge sheet.

7. The main defence taken by the petitioner is that the petitioner has given the said electronic evidence to the investigating officer, who conducted the investigation at the earlier stage, unfortunately, the investigating officer has not conducted the investigation further and hence, there is no mention about said document in the charge sheet.

8. It is not the first case and in most of the cases, the investigating officers are doing investigation with lethargic attitude and they are not realizing the feelings of the complainant/general public. In several cases, the Court expressed displeasure of the manner of the investigation conducted by the police now a days. Therefore, the Director General of Police, Tamil Nadu, is directed to give suitable directions to all their subordinates throughout the State to follow the statutory provisions meticulously.



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9. With the above observations and directions, this Criminal

Original Petition is dismissed.

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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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To

1. The Principal District and Sessions Judge,
Thiruvarur.
2. The Inspector of Police,
Peralam Police Station,
Nannilam Taluk,
Thiruvarur District.
3. The Public Prosecutor,
High Court, Madras.

Copy to:

The Director General of Police,
Tamil Nadu.



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P.VELMURUGAN, J

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