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CRL RC No. 162 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2025

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

CRL RC No. 162 of 2024

AND

CRL MP NO. 1507 OF 2024

1. R.Selvavinayagam
S/O. Ramasamy, Flat NO.B, Thirumalai
Nagar, 6th cross street, Hasthinapuram,
Chennai.

Petitioner(s)

Vs

1. Inspector Of Police
C1, Sriperumbudur Police station,
Kancheepuram District.
Cr.NO.1284/2021.

2.Mr S Suresh
E1006,HAZEL REALITY FLATS E-
BLOCK 10th FLOOR AVADI
POONAMALLEE(R2 IMPEADED
AS PER ORDER DT 31/01/2024 IN
CRL RC NO 162/2024)

Respondent(s)

PRAYER

To call for the records and to set aside the order dated 5.1.2024 passed in CrI.Mp.8098/2023 on the file of the learned Judicial Magistrate, Sriperumbudur, Kancheepuram District in CC.NO.57/2023 and to discharge the petition by allowing this Criminal Revision petition.



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For Petitioner(s): Mr. R. John Sathyan, Senior
counsel for
SWAMISUBRAMANIAN
E.Bharathi

For Respondent(s): Public Prosecutor For R1
R. Jayaprakash-ms/466/1996
R.Muthu Krishnan-
ms/2729/2014
Gummadi Rama Sayi For R2
Counter Filed

ORDER

This Criminal Revision Case has been filed to call for the records and to set aside the order dated 5.1.2024 passed in Crl.Mp.8098/2023 on the file of the learned Judicial Magistrate, Sriperumbudur, Kancheepuram District in CC.NO.57/2023 and to discharge the petition by allowing this Criminal Revision petition.

2. The Brief facts of the prosecution case:

The defacto complainant is an an Assistant General Manager Material Management Hyundai Motors India Pvt. Ltd, in charge for the spares, who lodged a complaint before the respondent police that the 3 months prior to the date of the alleged occurrence he came to know that the stock of Computer & Bracket assembly not tallied with the actuals and hence finally on 24.10.2021 on their inspection they found that 170 No's of Computer & Bracket Assembly was found missing and on 25.10.2021 at about 9.15 p.m they found



that someone kept 108 bracket in the unloading area, based on which they conducted enquiry with their temporary employees and found that on instructions of the petitioner herein and other accused/first and second accused in this case committed the above offence of theft and hence they enquired the office premises and based on their statements the petitioner herein was made as accused in this case. Based on the said complaint, the respondent police registered FIR in Crime No. 1284 of 2021 for the offence under Sections 381 and 34 IPC and thereafter, the respondent police filed a final report and the same was taken on file in C.C No. 57 of 2023 on the file of the Judicial Magistrate, Sriperumbudur, Kancheepuram District.

3. Subsequently, the petitioner herein filed Crl.MP. No. 8098 of 2023 under Section 239 Cr.P.C to discharge him from the case. Before the Trial court, the learned counsel for the petitioner submits that the petitioner is no way connected with the present case and he has been falsely implicated in this case without any material. Hence, he prays to discharge the petitioner from the case.

3.1. On the other side, the learned Public Prosecutor Submits that the petitioner and other accused persons were working in Hyundai Motors India Pvt. Ltd at that time with an ill motive they had attempted to theft 170 No's of Computer & Bracket Assembly. Based on the confession of the other accused the petitioner implicated in this case case and there is valid material against the petitioner. Hence, he raised objection to allow the case.



3.2. On hearing both sides the Trial Court held that the petitioner name is specifically mentioned in FIR which shows that he had actively participated in the crime hence the petitioner cannot be discharge from the case since there is prima facie material against the petitioner.

4. The learned counsel for the petitioner submits that the petitioner was not aware of the alleged theft and in fact, the petitioner was implicated in this case based on the confession of the other accused persons. Except confession there is no other material against the petitioner to implead him in this case. But the Trial Court failed to consider the same and erroneously dismissed the case. Hence, he prays to allow this Revision case.

5. The learned Government Advocate (Crl. Side) submits that the petitioner along with other accused persons were involved in the offence and theft material was recovered inside the company premises and the accused persons were sent out from the said company.

6. Heard both sides.

7. On perusal of the records, except confession, admittedly there is no direct evidence against the petitioner to implicate him as accused in the case, without which, the petitioner was charged under Section 381 IPC as such is not maintainable. It is settled proposition that mere confession is not sufficient to prosecute the petitioner. The Section 381 IPC reads as follows:



Section 381 IPC:

Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

8. The main ingredient to attract offence under Section 381 IPC is accused must be in possession of the property belongs to the employer. In the present case, the articles alleged to be stolen by the petitioner were found in different parts of the factory and not recovered from the petitioner. Hence, there is no prima facie material against the petitioner to attract offence under Sections 381 IPC, hence, this Court is inclined to discharge the petitioner from the case. Accordingly, the petitioner is discharged from the case in C.C No. 57 of 2023 on the file of the Judicial Magistrate, Sriperumbudur, Kancheepuram District. Further, the impugned judgement passed by the Judicial Magistrate, Sriperumbudur, Kancheepuram District, in CrI.Mp.8098/2023 is hereby set aside. Findings cannot be used for reinstatement.

9. In the result, this Criminal Revision Case is allowed. Pending petition, if any is/are closed.

24-11-2025

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T.V.THAMILSELVI J.
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To

1. The Judicial Magistrate, Sriperumbudur, Kancheepuram District.
2. The Public Prosecutor, High Court, Madras.

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AND CRL MP NO. 1507
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