



Crl.O.P.No.5189 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.5189 of 2025
and Crl.M.P.No.3367 of 2025

P.Sivagurunathan

... Petitioner

Vs

1. The State represented by
Inspector of Police,
H5 New Washermenpet Police Station,
Chennai District.
(Crime No.719 of 2024)

2. Karthick ... Respondents

PRAYER: Criminal Original Petition is filed under Section 428 of Cr.P.C/
Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the
records in Crime No.719 of 2024, Inspector of Police, H-5 New Washermenpet
Police Station, Chennai District and to quash the same as far as this petitioner
concern.

For Petitioner	: Mr.R.C.Paul Kanagaraj
For R1	: Mr.R.Vinothraja Government Advocate (Crl.side)
For R2	: Notice served No appearance



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ORDER

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This Criminal Original Petition has been filed to quash the FIR in

Crime No.719 of 2024 on the file of the first respondent.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials placed on record.

3. On the complaint lodged by the second respondent, the first respondent registered FIR in Crime No.719 of 2024 for the offences punishable under Sections 294(b), 386 and 506(2) of IPC alleging that the second respondent is doing construction and demolition work under contract basis in an around Chennai. While being so, the accused persons A5 to A8 used to visit the second respondent very often to extract money as per the instructions and aids of the first accused. In the month of January, 2003, A5, A7 and A9 visited the second respondent and demanded a sum of Rs.20 Lakhs. They had also handed over the mobile phone to him and through the phone, the first accused threatened him with dire consequences and to pay a sum of Rs.1 Lakh per month as mamool, failing which he will not do the business in Chennai. Accordingly, they received Mamool for five months. Due to financial crisis,



when the second respondent stopped paying mamool, the accused 5, 7 and 9 visited and demanded mamool from the second respondent once again. Further, other accused persons also met the second respondent and informed that they are the men of one Esa @ Eswaran and one Eli @ Eliyavaraj and demanded mamool. When the second respondent refused to pay mamool, they threatened him at knife point. They had also shown deadly weapons and threatened him with dire consequences. Hence, the complaint.

4. The learned counsel for the petitioner submitted that the petitioner is arrayed as A5. He is an Advocate and practicing in various Courts at Chennai. While being so, there was a brutal murder committed by unruly persons of one Armstrong, who is the President of a political party in Tamil Nadu, on 05.07.2024. Pursuant to the said murder, the Inspector of Police, K-1 Sembium Police Station, Chennai had registered FIR in Crime No.293 of 2024 for the offences punishable under Sections 191(2), 191(3), 18(1), 103, 351(3) of BNS read with Section 61(2) of BNS. In order to secure the accused, a special team was formed and proceeded with the investigation. While being so, on 21.07.2024, the petitioner was forcibly taken under the guise of enquiry. Thereafter, he was released from their illegal custody after receipt of signature



and also seized his mobile phone for the purpose of scrutiny and clarification.

Thereafter, the petitioner was called for enquiry on 22.07.2024. During the enquiry, they have found that the petitioner had no role in connection with the murder case. For the occurrence taken place in the month of January, 2023 that too without any specific overtact as against the petitioner, his name has been included as A5 in Crime No.719 of 2024, on the file of the first respondent. Pursuant to the said FIR, the petitioner was arrested and remanded to judicial custody and subsequently, he was enlarged on bail.

5. He further submitted that there is absolutely no date of occurrence, place of occurrence and the mode of occurrence in order to implicate the petitioner as accused. The present FIR is nothing but clear abuse of process of law. In fact, one of the accused by name Mottai Krishna was also wanted for investigation in the murder case of the said Armstrong. On the date of registration of FIR, on 22.07.2024, the said person was not even available in Chennai and he was in Thailand, as per the confession statement of one of the accused in the murder case of the said Armstrong. Therefore, it is a clear case of false one and in order to wreck vengeance as against the accused, the petitioner has been falsely implicated in this case. There is absolutely no other

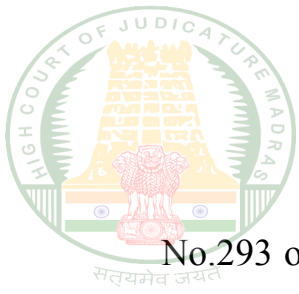


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case is pending as against the petitioner and he has no connection with other accused persons.

6. A perusal of the counter filed by the first respondent and on the submissions made by the learned Government Advocate (Crl.side) appearing for the first respondent revealed that the petitioner is arrayed as A5. He is associated with the first accused Sambo Senthil. They used to collect mamool from the land and building developers. The petitioner is an Advocate and utilizing his position, he had involved in illegalities. On the complaint lodged by the first respondent before the Bar Council of India, the petitioner was suspended from practice and directed the Bar Council of Tamil Nadu to conduct enquiry and file a report. Therefore, there are *prima facie* material as against the petitioner to constitute the offences under Sections 294(b), 386 and 506(2) of IPC.

7. A perusal of FIR revealed that for the occurrence took place in the month of January, 2023, the second respondent lodged a complaint only on 22.07.2024. The petitioner was taken by the Inspector of Police, Sembium Police Station, for enquiry in pursuant to the registration of FIR in Crime

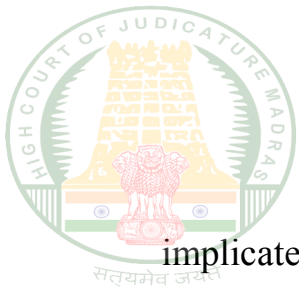


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No.293 of 2024 in the case of murder of one Armstrong, on 21.07.2024 and on the very next day, the present impugned FIR has been registered along with other habitual offenders.

8. Admittedly, the petitioner did not involve in any other case and it is the first case registered against him. There is no material to show that he had connection with other accused persons. Even according to the second respondent, he made an allegation that on the date of registration of FIR, he was threatened by the accused persons when he was operating his JCB, near Wimco Nagar, Thiruvottiyur. They had also threatened him by showing deadly weapons. However, the second respondent did not even whisper about the date of occurrence and time of occurrence. That apart, he specifically mentioned the names of the accused including one Mottai Krishna.

9. A perusal of the confession statement of one of the accused in the murder case of Armstrong revealed that the said Mottai Krishna went to Thailand along with his wife one week before the date of registration of the present FIR viz., 22.07.2024. It shows that the petitioner has no connection with other accused persons and in order to foist a false case, he has been falsely



implicated in the present case and also to justify his custody in pursuant to the murder case of one Armstrong. The above statement is also corroborated by another accused. Therefore, the present FIR is nothing but clear abuse of process of law and it cannot be sustained as against the petitioner.

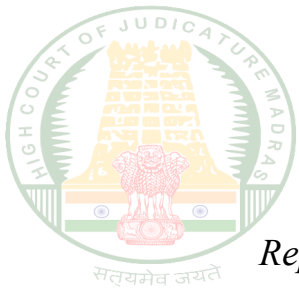
10. Further, for the occurrence took place in the month of January, 2023, the second respondent lodged a complaint only on 22.07.2024. That apart, the second respondent is none other than a history sheeter and a habitual offender. Therefore, there is absolutely no possibility for the petitioner and other accused persons to demand money from the second respondent.

11. In this regard, it is relevant to rely upon the Judgment of the Apex Court in ***State of Haryana and others Vs. Bhajan Lal and Others*** reported in ***1992 Supp (1) Supreme Court Cases 335***, has been held as follows :

“

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information



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Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or -complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly



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attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

12. Therefore, the FIR has been registered as against the petitioner only to wreck vengeance and it cannot be sustained as against the petitioner. Accordingly, FIR in Crime No.719 of 2024 on the file of the first respondent, is hereby quashed.

13. In the result, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

17.04.2025

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
mn



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G.K.ILANTHIRAIYAN. J.

mn

To

1. The Inspector of Police,
H5 New Washermenpet Police Station,
Chennai District.
2. The Public Prosecutor,
High Court, Madras.

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