



WEB COPY



CrI.O.P.No. 7615 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.7615 of 2025 and
CrI.M.P.Nos.4890 and 5009 of 2025

Karthikeyan

... Petitioner

Vs.

1.The State of Tamil Nadu through the
Inspector of Police,
Vellor South (L&O) Police Station.
Crime No.151 of 2021.
Vellore.

2.Saravanan

..Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records in C.C.No.1995 of 2024 on the file of the learned Judicial Magistrate No.1, Vellore and quash the same.

For Petitioner : Mr.N.R.Elango,
Senior Counsel for
Mr.P.S.Prabu

For R1 : Mr.K.M.D.Muhilan,
Government Advocate (crl.side)



CrI.O.P.No. 7615 of 2025

WEB COPY

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in C.C. No. 1995 of 2024 on the file of the learned Judicial Magistrate No.1, Vellore.

2. The case of the prosecution is that the second respondent had lodged a complaint alleging that, based on secret information, cash was being distributed to voters. Acting on this information, the second respondent, along with his flying squad, proceeded to the scene of occurrence, which was located near Vettri Vinayagar temple junction. Upon their arrival, the general public dispersed from the scene of occurrence, except for the first accused. From the first accused, the flying squad seized a sum of Rs.31,000/- along with two paper sheets. On enquiry, the first accused revealed that the said amount was given to him by the second accused who is none other than the petitioner herein for distribution to voters.



CrI.O.P.No. 7615 of 2025

WEB COPY

3. Originally, the first accused made a confession before the first respondent, stating that the amount was entrusted to him for distribution to the voters. In his second confession, he claimed that the amount of Rs. 31,000/- was his own money, which he had obtained by pledging his wife's jewels with a pawn broker. Based on the above complaint, the first respondent registered an FIR in Crime No. 151 of 2024 under Sections 294(b), 353, 171(E), and 506(1) of IPC. After completing the investigation, the final report was filed and the same was taken cognizance of in C.C. No. 1995 of 2024.

4. The learned Senior Counsel for the petitioner submits that the first respondent, after recording two sets of confessions from the first accused, filed the final report only as against the first accused. However, on perusal of the first confession statement, the Trial Court has erroneously taken cognizance against two accused persons, including the petitioner as the second accused. The learned Senior Counsel contends that the confession statement recorded by the police officer is inadmissible in evidence and cannot form the basis for taking cognizance



CrI.O.P.No. 7615 of 2025

WEB COPY

against the petitioner. In fact, the first respondent filed the final report only against the first accused based on the second confession and the Trial Court, while taking cognizance, wrongly relied on the first confession statement, which is inadmissible under the law.

5. The learned Senior Counsel also relied upon the decision of the Hon'ble Supreme Court in *Haricharan Kurmi v. State of Bihar* reported in **(1994) 6 SCR 623**, wherein the Constitutional Bench held that while a confession may be regarded as evidence in a generic sense under Section 30 of the Indian Evidence Act, it is not substantive evidence as defined under Section 3 of the Act. The Court further held that, in a case involving multiple accused, the trial must begin with other evidence adduced by the prosecution and only after forming an opinion on the quality and effect of such evidence, may the Court turn to the confession of a co-accused for corroboration. Therefore, a confession made by a co-accused cannot be treated as substantive evidence, and it may be used only to assure the Court's conclusion after considering other independent evidence.



CrI.O.P.No. 7615 of 2025

WEB COPY

6. The learned Senior Counsel for the petitioner would further submit that in the present case, there is no direct evidence to connect the petitioner with the alleged crime. There has been no recovery from the petitioner and the only evidence against him is the confession of the co-accused, which, under the law, is inadmissible. Therefore, the learned Senior Counsel argues that the Trial Court erred in taking cognizance against the petitioner and the proceedings in C.C. No. 1995 of 2024 ought to be quashed.

7. Heard both sides and perused the materials available on record.

8. After careful consideration of the submissions made by both parties and the materials available on record, it is evident that the only evidence against the petitioner is the confession of the co-accused, which, as per the legal position established in ***Haricharan Kurmi v. State of Bihar (supra)***, cannot be treated as substantive evidence. There is no direct or independent evidence to substantiate the involvement of the petitioner in the alleged crime.



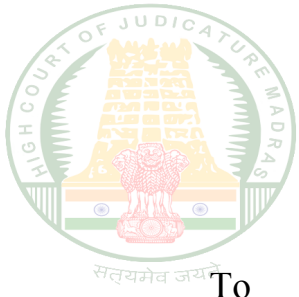
CrI.O.P.No. 7615 of 2025

WEB COPY

9. In view of the above, the proceedings in C.C. No. 1995 of 2024 cannot be sustained and is liable to be quashed. Accordingly, the entire proceedings in C.C.No.1995 of 2024 is hereby quashed as against the petitioner alone and the Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

21.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
shk



CrI.O.P.No. 7615 of 2025

To
WEB COPY

- 1.The Judicial Magistrate No1, Vellore
- 2.The Inspector of Police,
Vellor South (L&O) Police Station.
Vellore.
3. The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.O.P.No. 7615 of 2025

G.K.ILANTHIRAIYAN, J.

shk

Crl.O.P.No.7615 of 2025 and
Crl.M.P.Nos.4890 and 5009 of 2025

21.03.2025