



Crl.O.P.No.6404 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2025

CORAM:

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

Crl.O.P.No.6404 of 2025
and Crl.M.P.No.4097 of 2025

Thengovan Rajendran @ M.R.R.Shanmugam

... Petitioner

Vs

1. State Rep By,
Inspector of Police,
Karaikal Town Police Station,
Karaikal District.
Crime No. 8 of 2013.

2. Arun @ Arunraj

... Respondents

PRAYER: Criminal Original Petition is filed under 528 of the Bharatiya
Nagarik Suraksha Sanhita, 2023/Section 482 of Cr.P.C, to call for the records
culminating in PRC.No.5 of 2016 pending on the file of the Learned Judicial
Magistrate NO.II, Karaikal, quash the same.

For Petitioner : Mr.B.Mohan

For R1 : Mr.M.V.Ramachandramoorthy
Public Prosecutor (Pondy)

ORDER

This Criminal Original Petition has been filed calling for the records
in PRC.No.5 of 2016 pending on the file of the Judicial Magistrate No.II,
Karaikal and to quash the same.



CrI.O.P.No.6404 of 2025

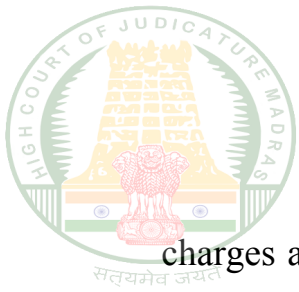
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2. The respondent Police registered an FIR in Cr.No.8 of 2013 as against unknown accused persons. In the course of investigation, totally 28 accused persons were identified and a Final Report came to be filed before the Court below for the offences under Sections 147, 148, 341, 120(B), 302, 307, 326, 324, 193, 201(1) IPC r/w 149 IPC.

3. The petitioner has been ranked as A-25.

4. The learned counsel appearing on behalf of the petitioner submitted that this petitioner was shown as an absconding accused in the Final Report and there are absolutely no materials against the petitioner, except the confession statement alleged to have been given by A-3 and A-6 against the petitioner before the Police. The learned counsel therefore submitted that the petitioner cannot be added as an accused merely based on the confession statement given by the co-accused without there being any other material against the petitioner.

5. The learned Additional Public Prosecutor appearing on behalf of the respondent Police submitted that this is a case of serious nature involving death of one person and LW-16, being critically injured because of the attack. The learned counsel submitted that even a strong suspicion is enough to frame



Crl.O.P.No.6404 of 2025

charges against the accused persons, and therefore the petitioner must be made to face the trial before the Court below.

6. This Court has carefully considered the submissions made on either side and the materials available on record.

7. It is clearly seen from the entire materials that have been filed before this Court along with the Final Report that, except for the confession of two of the co-accused persons viz; A-3 and A-6, there is absolutely no other material available against the petitioner.

8. It is now a settled principle of law that, a confession of a co-accused cannot by itself be taken as a substantiate proof of evidence against another co-accused and at the best it can be used only to lend assurance to the Court. Useful reference in this regard can be made to the judgment of the Hon'ble Supreme Court in *Kashmira Singh .Vs. State of Madhya Pradesh* reported in *[AIR 1952 SC P 159]* and *Surinder Kumar Khanna .Vs. Intelligence Officer Directorate of Revenue Intelligence* reported in *[2018 3 MLJ Crl.753]*.



Crl.O.P.No.6404 of 2025

9. In the present case, there is no material available against the petitioner except the confession of the co-accused and therefore the proceedings cannot be continued against the petitioner since it will amount to an abuse of process of Court.

10. In the result, the proceedings in PRC No.5 of 2016, on the file of the learned Judicial Magistrate No.II, Karaikal, is hereby quashed insofar as the petitioner is concerned.

11. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

06.03.2025

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



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CrI.O.P.No.6404 of 2025

To

1. The Judicial Magistrate No.II, Karaikal.
2. The Inspector of Police,
Karaikal Town Police Station,
Karaikal District.
3. The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.6404 of 2025

G.K.ILANTHIRAIYAN. J,

mn

Crl.O.P.No.6404 of 2025

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