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Crl.R.C.No.378 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.07.2025

PRONOUNCED ON :21.07.2025

CORAM:

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

Crl.R.C.No.378 of 2025 &
Crl.M.P.No.3903 of 2025

1. Murugesan
2. Hemanathan

... Petitioners

Vs

1. The Inspector of Police,
M4, Redhills Police Station,
Chennai

2. Rajeshwari

... Respondents

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023 to call for the records and set aside the order passed by the learned IV Additional Sessions Judge, Ponneri, Thiruvallur in Crl.M.P.No.2 of 2025 in S.C.No.89 of 2024 and allow the further investigation petition filed by the petitioner under Section 193(9) of BNSS, 2023

For Petitioners : Mr.P.Rajkumar Pandian

For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

The present Revision has been filed as against the order passed in CrI.M.P.No.2 of 2025 in CrI.M.P.No.52 of 2025 in S.C.No.89 of 2024 on the file of learned IV Additional District Judge, Thiruvallur at Ponneri thereby dismissing the petition filed under Section 193(9) of BNSS, 2023 seeking further investigation.

2. The petitioners are arrayed as A.3 and A.5 in S.C.No.89 of 2024, charged for offence punishable under Sections 120 (b) r/w 147, 148, 341, 302 r/w 149 and 201 of IPC. While pending trial, the petitioners filed an application for further investigation and the same was dismissed on the ground that no circumstances would arise to order further investigation.

3. The learned counsel for the petitioners submits that the trial court mechanically dismissed the petition only on the ground that the trial had already commenced, hence no further investigation can be ordered under Section 193(9) of BNSS, 2023 and the proviso permits further investigation during the trial with the permission of the court and the same shall be completed within a period of ninety days. However, the trial court failed to note



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the key materials such as audio recordings and other evidence, which are suppressed by the 1st respondent. The entire investigation is in-complete, biased and suppressive of the material facts, thereby hindering the court of justice. Further, the 1st respondent completely suppressed the involvement of offenders in the murder, also, there had been conversations between two groups and they had conspired to do away with the life of the deceased. That apart, the 1st respondent attempts to prevent the actual perpetrator of the crime, therefore, it requires further investigation. In support of his contention, he relied upon the Judgment of the **Hon'ble Supreme Court reported in 1979 SCC Online SC 12 Criminal Appeal Nos.373 and 374 of 1978) [Ram Lal Narang Vs.State (Delhi Administration) and Om Prakash Narang and Another Vs. State (Delhi Administration)]** wherein in Paragraph No.15, among other things, it is held as follows:

"15.Ordinarily, the right and duty of the police would end with the submission of a report under Section 173(1) Cr.P.C., upon receipt of which it was up to the Magistrate to take or not to take cognizance of the offence. There was no provision in the 1898 Code prescribing the procedure to be followed by the police, where, after the submission of a report under Section 173(1) Cr.P.C., and after the Magistrate had taken cognizance of the offence, fresh facts came to light which required further investigation. There was, of course, no express provision prohibiting the police from launching



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upon an investigation into the fresh facts coming to light after the submission of the report under Section 173(1) or after the Magistrate had taken cognizance of the offence. As we shall presently point out, it was generally thought by many High Courts, though doubted by a few, that the police were not bared from further investigation by the circumstance that a report under Section 173(1) had already been submitted and a Magistrate had already taken cognizance of the offence..."

4. The learned counsel for the petitioners also relied upon the Judgment reported in **(2016) 1 Supreme Court Cases (Crl) 743 [Pooja Pal Vs. Union of India and Others]**, wherein at Paragraph no.86, it is averred as follows:-

"A trial encompasses investigation, inquiry, trial, appeal and retrial i.e., the entire range of scrutiny including crime detection and adjudication on the basis thereof. Jurisprudentially, the guarantee under Article 21 embraces both the life and liberty of the accused as well as interest of the victim, his near and dear ones as well as of the community at large and therefore, cannot be alienated from each other with levity. It is judicially acknowledged that fair trial includes fair investigation as envisaged by Articles 20 and 21 of the Constitution of India. Though well-demarcated contours of crime detection and adjudication do exist, if the investigation is neither effective nor purposeful nor objective nor fair, it would be the solemn obligation of the courts, if considered necessary, to order further investigation or reinvestigation as the



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case may be, to discover the truth so as to prevent miscarriage of the justice. No inflexible guidelines or hard-and-fast rules as such can be prescribed by way of uniform and universal invocation and the decision is to be conditioned to the attendant facts and circumstances, motivated dominantly by the predication of advancement of the cause of justice."

5. Per contra, the learned Government Advocate (CrI.Side) appearing for the respondents submitted that the petitioners are arrayed as A.3 and A.5 in the murder case. They cannot have any say in the investigation and nowhere their rights are prejudiced in the manner in which the 1st respondent completed the investigation. If at all any new materials are available, the police can seek permission from the trial court for further investigation and can file a supplementary charge sheet. In this case, there is absolutely no necessity for seeking permission of the trial court to conduct further investigation. Further, there is no proviso exists to suggest that court is obliged to hear the accused while considering application of the accused for further investigation. Therefore, the accused has no role to play in the investigation. The right of further investigation is in the hands of the investigating agency and filing of the petition by the accused is only to delay the pending proceedings, therefore, except the investigating agency, no one can think about further investigation.



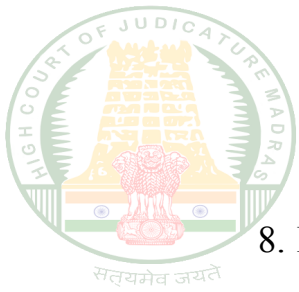
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Hence the trial court rightly dismissed the petition and it does not require any

interference by this Court.

6. Heard the learned counsel on either side and perused the documents placed on record.

7. The petitioners, who are arrayed as accused / A.3 and A.5 along with A.4 filed an application for further investigation in Crime No.852 of 2023. The case of the prosecution is that on 17.08.2023 at about 7.00 hrs, the defacto complainant lodged a complaint indicating that her husband went for walk, thereafter, she received a phone call that her husband was brutally attacked near Ravi Grocery Shop. When he was taken to hospital, he was declared brought dead and after registration of FIR, investigation was conducted and on 18.08.2023, A.3 to A.5 had surrendered themselves before the learned Judicial Magistrate, Salem and on their confession, other accused persons were secured and during the investigation, A.1 and A.2 were encountered on 12.10.2023. After completion of investigation, the respondent police filed final report and the same was taken cognizance by the trial court.



8. It is to be noted that as against the 1st petitioner, 15 cases are pending at various stages and as against the 2nd petitioner, 14 cases are pending at various stages. Both the petitioners are historysheeted and habitual offenders. Upon considering the entire facts of the case, two issues arises for consideration:-

- (i) Whether the accused can seek for further investigation?
- (ii) If so, any materials available for further investigation?

The Hon'ble Supreme Court of India has repeatedly held that right of seeking further investigation is in the hands of the investigating officer, when that being so, the present petition filed by the accused is nothing, but delaying the trial. It is relevant to extract the provision of Section 193(9) of BNSS Act, 2023:-

193. Report of police officer on completion of investigation.

(9) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (3) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form as the State Government may, by rules, provide; and the provisions of sub-sections (3) to (7) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a



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report forwarded under sub-section (3): Provided that further investigation during the trial may be permitted with the permission of the Court trying the case and the same shall be completed within a period of ninety days which may extend with the permission of the Court.

9. Thus it is clear that the right of further investigation is vested with investigating agency and no one except investigating agency can think that further investigation is required for completion of trial. Therefore, the investigating agency alone can move application under Section 193(9) of Cr.P.C., Since the trial is in progress, at this stage, the trial court on the application filed by complainant / informant can direct further investigation. Such a course shall be acted upon only on the request of the investigating agency in the circumstances warranting further investigation in the deduction of material evidence only to secure fair investigation and trial.

10. Therefore, the petitioners, being accused cannot dictate the manner in which investigation is to be carried out, which is the prerogative of the investigation agency alone. Already, the 1st respondent filed final report and the same has been taken cognizance as against the petitioners, therefore, the Judgments relied upon by the petitioners are not applicable to the case on hand, hence the 2nd issue does not arise.



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WEB COPY In view of the above, this Court finds no infirmity or illegality in the order passed by the trial Court and the present Revision is dismissed. Consequently, connected miscellaneous petition is closed.

21.07.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order
ssd

To

1. The IV Additional Sessions Judge,
Ponneri, Thiruvallur
2. The Inspector of Polie,
M4, Redhills Police Station,
Chennai
3. The Public Prosecutor,
Madras High Court,
Chennai.



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G.K.ILANTHIRAIYAN, J.

ssd

Pre-delivery Order in
Crl.RC.No. 378 of 2025

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