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Crl.OP.No.8837 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2025

CORAM:

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

CRL.O.P.No.8837 of 2025
and Crl.MP.Nos.5841 & 5843 of 2025

Nasar

... Petitioner

Vs.

1.State Rep by its
The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
(cr.No.315 of 2013)
2. The Village Administrative Officer,
Muthupettai, Tiruvarur.

... Respondents

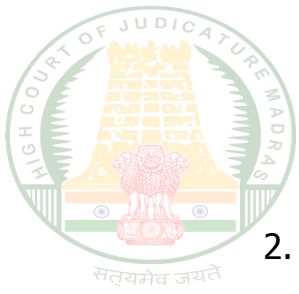
PRAYER: Criminal Original Petition filed under Section 528 of BNSS praying to call for the records in PRC.No.36 of 2016 pending on the files of the Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur and quash the same as illegal and without jurisdiction.

For Petitioner : Mr.I.Abdul Basith

For Respondents : Mr.A.Gopinath,
Government Advocate(crl.side)

ORDER

This criminal original petition has been filed to quash the proceedings in PRC.No.36 of 2016 pending on the file of the Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur.



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2. The petitioner is arraigned as A24 in the present FIR in Crime No.315 of 2013, registered by the first respondent registered for the offences under Sections 147, 504 & 506(1) of IPC and Section 3(1) of TNPPDL Act. After completion of investigation, the first respondent filed a final report and the same has been numbered as PRC.No.36 of 2016 on the file of the learned Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur. The allegations as against the petitioner is that on 09.08.2013, to celebrate Ramzhan festival, the petitioner along with other accused persons went on rally in their respective bikes. At that time, there was a meeting conducted by the members belonging to the Bharathiya Janatha Party. Therefore, the first respondent diverted them to other route. But the petitioner along with other accused persons distracted the first respondent and other police officials from doing their official duty and also caused damage to the fruit shops, flower shops and other shops and also caused damage to the police vehicles.

3. It is also seen that the first respondent registered an another case as against the petitioner in Crime No.318 of 2018, on receipt of the separate complaint from a shop owner. It is seen that both the complaint registered for the very same set of facts and for the very same allegations. The first respondent also filed separate charge sheet in both the FIR registered as against the petitioner. In fact, the statement recorded from the



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witnesses under Section 161(3) of Cr.P.C are also one and the same in all the charge sheets. There cannot be even more than one FIR for the very same occurrence and that on the very same set of allegations.

4. Admittedly, the petitioner along with other accused persons were going on a rally, in order to celebrate their Ramzan festival on 09.08.2013. There was an obstruction by the other party members. Therefore, they were directed to other route and therefore they attacked some of the fruit shops and flower shops. Hence, there cannot be more than one FIR for the said occurrence. The first respondent seems to have mechanically registered five cases in Crime Nos. 314 to 318 of 2013, as against the petitioner for the very same occurrence, on receipt of different complaints from the different shop owners. The first respondent also filed final report in all the crime numbers. It is a complete violation of the procedure laid down in the Cr.P.C.

5. In this regard, it is relevant to rely upon the judgment reported in **(2013) 6 SCC 348** in the case of **Amitbhai Anilchandra Shah Vs. The Central Bureau of Investigation and anr.**, in which the Hon'ble Supreme Court of India held as follows :-

"52. a) This Court accepting the plea of the CBI in Narmada Bai (supra) that killing of



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Tulsiram Prajapati is part of the same series of cognizable offence forming part of the first FIR directed the CBI to "take over" the investigation and did not grant the relief prayed for i.e., registration of a fresh FIR. Accordingly, filing of a fresh FIR by the CBI is contrary to various decisions of this Court.

b) The various provisions of the Code of Criminal Procedure clearly show that an officer-in-charge of a police station has to commence investigation as provided in Section 156 or 157 of the Code on the basis of entry of the First Information Report, on coming to know of the commission of cognizable offence. On completion of investigation and on the basis of evidence collected, Investigating Officer has to form an opinion Under Section 169 or 170 of the Code and forward his report to the concerned Magistrate Under Section 173(2) of the Code.

c) Even after filing of such a report, if he comes into pos , there is no need to register a fresh FIR, he is empowered to make further investigation normally with the leave of the Court and where during further investigation, he collects further evidence, oral or documentary, he



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is obliged to forward the same with one or more further reports which is evident from Sub-section (8) of Section 173 of the Code. Under the scheme of the provisions of Sections 154, 155, 156, 157, 162, 169, 170 and 173 of the Code, only the earliest or the first information in regard to the commission of a cognizable offence satisfies the requirements of Section 154 of the Code. Thus, there can be no second FIR and, consequently, there can be no fresh investigation on receipt of every subsequent information in respect of the same cognizable offence or the same occurrence or incident giving rise to one or more cognizable offences.

d) Further, on receipt of information about a cognizable offence or an incident giving rise to a cognizable offence or offences and on entering FIR in the Station House Diary, the officer-in-charge of the police station has to investigate not merely the cognizable offence reported in the FIR but also other connected offences found to have been committed in the course of the same transaction or the same occurrence and file one or more reports as provided in Section 173 of the Code. Sub-section (8) of Section 173 of the Code empowers the police to make further



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investigation, obtain further evidence (both oral and documentary) and forward a further report (s) to the Magistrate. A case of fresh investigation based on the second or successive FIRs not being a counter case, filed in connection with the same or connected cognizable offence alleged to have been committed in the course of the same transaction and in respect of which pursuant to the first FIR either investigation is underway or final report Under Section 173(2) has been forwarded to the Magistrate, is liable to be interfered with by the High Court by exercise of power Under Section 482 of the Code or under Articles 226/227 of the Constitution.

e) First Information Report is a report which gives first information with regard to any offence. There cannot be second FIR in respect of the same offence/event because whenever any further information is received by the investigating agency, it is always in furtherance of the first FIR.

f) In the case on hand, as explained in the earlier paras, in our opinion, the second FIR was nothing but a consequence of the event which had taken place on 25/26.11.2005. We have



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already concluded that this Court having reposed faith in the CBI accepted their contention that Tulsiram Prajapati encounter is a part of the same chain of events in which Sohrabuddin and Kausarbi were killed and directed the CBI to "take up" the investigation.

g) For vivid understanding, let us consider a situation in which Mr. 'A' having killed 'B' with the aid of 'C', informs the police that unknown persons killed 'B'. During investigation, it revealed that 'A' was the real culprit and 'D' abetted 'A' to commit the murder. As a result, the police officer files the charge sheet Under Section 173(2) of the Code with the Magistrate. Although, in due course, it was discovered through further investigation that the person who abetted Mr. 'A' was 'C' and not 'D' as mentioned in the charge sheet filed Under Section 173 of the Code. In such a scenario, uncovering of the later fact that 'C' is the real abettor will not demand a second FIR rather a supplementary charge sheet Under Section 173(8) of the Code will serve the purpose.

h) Likewise, in the case on hand, initially the CBI took a stand that the third person



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accompanying Sohrabbuddin and Kausarbi was Kalimuddin. However, with the aid of further investigation, it unveiled that the third person was Tulsiram Prajapati. Therefore, only as a result of further investigation, the CBI has gathered the information that the third person was Tulsiram Prajapati. Thus a second FIR in the given facts and circumstances is unwarranted; instead filing of a supplementary charge sheet in this regard will suffice the issue.

i) Administering criminal justice is a two-end process, where guarding the ensured rights of the accused under Constitution is as imperative as ensuring justice to the victim. It is definitely a daunting task but equally a compelling responsibility vested on the court of law to protect and shield the rights of both. Thus, a just balance between the fundamental rights of the accused guaranteed under the Constitution and the expansive power of the police to investigate a cognizable offence has to be struck by the court. Accordingly, the sweeping power of investigation does not warrant subjecting a citizen each time to fresh investigation by the police in respect of the same incident, giving rise to one or more cognizable offences. As a consequence, in our



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view this is a fit case for quashing the second F.I.R. to meet the ends of justice.

j) The investigating officers are the kingpins in the criminal justice system. Their reliable investigation is the leading step towards affirming complete justice to the victims of the case. Hence they are bestowed with dual duties i.e. to investigate the matter exhaustively and subsequently collect reliable evidences to establish the same."

In the above case, Hon'ble Supreme Court of India held in respect of registration of FIR and consequential issues, that the FIR is a report which gives information with regard to any offence. There cannot be second FIR in respect of very same set of allegations. Therefore, the impugned proceedings cannot be sustained as against the petitioner and it is nothing but clear abuse of process of law.

6. In an another judgment reported in **(2013) 6 SCC 384** in the case of **Anju Chaudhary Vs. State of UP and anr.**, the Hon'ble Supreme Court of India held that there cannot be second FIR in respect of very same offence/event because, whenever any further information is received by the investigating agency, it is always in furtherance of the first FIR. In the case



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on hand, for the very same offence, five FIRs have been registered by the first respondent police and also have filed final report. It cannot be permissible, as such the subsequent information is not in furtherance to the first FIR. Therefore, the entire proceedings are vitiated and it is liable to be quashed.

7. In view of the above discussion, this Criminal Original Petition is allowed and the proceedings in PRC.No.36 of 2016 pending on the file of the Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur, is hereby quashed. Consequently, connected miscellaneous petitions are closed.

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

- 1.The Judicial Magistrate Court, Thiruthuraipoondi, Tiruvarur
- 2.The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
- 3.The Village Administrative Officer,
Muthupettai, Tiruvarur.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai.



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G.K.ILANTHIRAIYAN, J.

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