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Crl.O.P.No.8529 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.8529 of 2025
and Crl.M.P.No.5563 of 2025

Rajkumar

... Petitioner

Vs

State rep by,
The Inspector of Police,
Karipatty Police Station,
Salem District.
(Crime No.330 of 2020)

... Respondent

Prayer : Criminal Original Petition has been filed under Section 528 of BNSS Act, 2023, pleased to call for the records in Crime No.330 of 2020 on the file of the respondent police and quash the same.

For Petitioner	: Mr.M.Guruprasad for Mr.P.S.Prabu
For Respondent	: Mr.A.Gopinath Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.330 of 2020, on the file of the respondent Police.



WEB COPY 2. Heard both sides and perused the materials available on record.

3. The case of the prosecution is that the petitioner, along with other accused, was found in possession of explosive substances without any valid license. The respondent recovered a cardboard box containing 121 RDX-90 Gellatin sticks and 139 IED Detonators from the possession of the accused. Hence, the complaint.

4. On receipt of the complaint, the respondent registered FIR in Crime No.330 of 2020 for the offence punishable under Section 9(B)(1)(b) of Explosives Act, 1884 with a maximum punishment of two years.

5. As per Section 468 of Cr.P.C, the Trial Court ought to have taken cognizance of the offence within a period of three years from the date of registration of FIR. However, so far, the respondent has failed to file any final report. Therefore, even if the respondent were to file a final report at this stage, the Trial Court would be barred from taking cognizance of the offence. Hence, merely



keeping the FIR pending would not serve any purpose. That apart, the offence

under Section 9(B)(1)(b) of Explosives Act, 1884 is a non cognizable offence.

6. It is relevant to extract the provisions under Section 155 of Cr.P.C as follows:-

"155. Information as to non-cognizable cases and investigation of such cases :-

(1) When information is given to an officer in charge of a police station of the commission within the limits of such station of a non-cognizable offence, he shall enter or cause to be entered the substance of the information in a book to be kept by such officer in such form as the State Government may prescribe in this behalf, and refer, the informant to the Magistrate

(2) No police officer shall investigate a non-cognizable case without the order of a Magistrate having power to try such case or commit the case for trial

(3) Any police officer receiving such order may exercise the same powers in respect of the investigation (except the power to arrest without warrant) as an officer in charge of a police station may exercise in a cognizable case

(4) Where a case relates to two or more offences of which at least one is cognizable, the case shall be deemed to be a cognizable case, notwithstanding that the other offences are noncognizable."

Thus, it is clear that no Police officer shall investigate non cognizable cases without the order of the Magistrate having power to try such case or commit the case for trial.



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7. Therefore, the respondent has no jurisdiction to register FIR for non-cognizable offence without getting prior permission from the concerned Jurisdictional Magistrate.

8. In view of the above, the impugned FIR cannot be sustained and is liable to be quashed. Accordingly, the FIR in Crime No.330 of 2020 on the file of the respondent police is hereby quashed.

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

20.03.2025

Index: Yes/No
Speaking Order: Yes/No
mn



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To

1.The Inspector of Police,
Karipatty Police Station,
Salem District.

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN,J.

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