



CrI.O.P.No.17224 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

CrI.O.P.No.17224 of 2025

Balaji

... Petitioner

Vs.

1. The Inspector of Police-Law & Order

J1 - Police Station

Saidapet, Chennai - 600 015

2. Sivagurunathan

... Respondents

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023 to direct the first respondent to further investigate in Crime No.375 of 2022 and file a final report within the period that may be stipulated by this Court.

For Petitioner : Mr.G.Vana Narayanan

For First Respondent : Mr.S.Vinoth Kumar

Government Advocate (CrI. Side)



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ORDER

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This Criminal Original Petition has been filed by the petitioner to direct the first respondent to further investigate the case in Crime No.375 of 2022 and file a final report within the period that may be stipulated by this Court.

2. The case of the petitioner is that the petitioner had lodged a complaint against the second respondent herein and also two other assaulters for abusing and attacking the petitioner. However, no action was taken by the first respondent police. Thereafter, based on the directions given by the Magistrate, the case in Crime No.375 of 2022 was registered by the first respondent police only against the second respondent for the offence under Sections 294(b) and 323 IPC. Subsequently, the first respondent police filed the charge sheet and the same was taken on file in C.C. No.98 of 2023 on the file of the IX Metropolitan Magistrate, Saidapet, Chennai and to his shock, the first respondent had shown the other two assaulters as witnesses to the case instead of accused. During his chief examination before the Magistrate on 28.03.2023,



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the petitioner clearly stated that two other assaulter were not included by the first respondent police and the learned Magistrate also directed the prosecution to file a petition under section 319 Cr.P.C. From 28.08.2023 to till date, the first respondent failed to further investigate the matter and the case is in the stage of cross examination of defacto complainant. Hence, the present petition is filed.

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

4. It is seen that based on the complaint given by the petitioner, the respondent police already conducted investigation and also filed charge sheet and the same was taken on file and trial also commenced. At the time of chief examination of P.W.1/defacto complainant, he has reiterated the content of the complaint and FIR and that the prosecution has sought time for filing petition under Section 319 Cr.P.C. However, the prosecution has not filed any such application till date. Therefore, the petitioner/defacto complainant has filed the present petition seeking appropriate direction.

5. Section 319 Cr.P.C. is very clear that at the time of enquiry/trial, if the



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trial Court finds that some other person is involved in the offence other than

the named accused, the Magistrate can exercise his power under Section 319

Cr.P.C. and summon the said person and implead him/her as an accused and

proceed with the case. Neither the defacto complainant nor the police need to

file any application to implead a person as an accused. It is the discretionary

power of the Court.

6. Therefore, the trial Court is directed to implead those persons as mentioned by the defacto complainant in his chief examination and complaint by issuing summons to them and proceed with the case in accordance with law.

7. With the above directions, this Criminal Original Petition is disposed of.

16.06.2025

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No

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To

1. The IX Metropolitan Magistrate, Saidapet, Chennai

2. The Inspector of Police-Law & Order

J1 - Police Station

Saidapet, Chennai - 600 015

3. The Public Prosecutor

High Court of Madras, Chennai



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P.VELMURUGAN. J.

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