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CRL.O.P.No.20398 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2025

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THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

CRL.O.P.No.20398 of 2019

M.Boothapandi

Petitioner

Vs

The State of Tamil Nadu,
Represented by its Additional Superintendent of Police,
Crime Branch C.I.D., Villupuram Range, Villupuram,
(Crime No.5 of 2014).

Respondent

PRAYER

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records of the proceedings in C.C.No.1 of 2016 on the file of the Chief Judicial Magistrate, Villupuram and to quash the same as illegal and without jurisdiction.

For Petitioner:

Mr.Gowtham Thelak
for Mr.Govind Chandrasekhar

For Respondent:

Mr.K.M.D.Muhilan
Additional Public Prosecutor



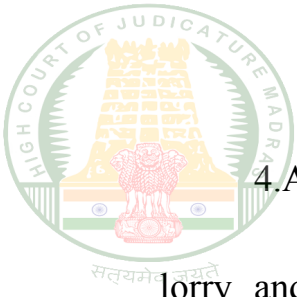
ORDER

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This Criminal Original Petition has been filed by the petitioner, who was arrayed as A24 in the final report filed by the respondent Police for the alleged offences under Section 120(B), 380, 407, 272, 119, 114, 411 IPC.

2.The crux of the allegation is that on 19.08.2014, when the Sub Inspector of Police, Vellimedupettai Police Station, Villupuram District in regular patrol while checking the vehicles, arrested A5 and A6 on suspicion.

3.On interrogation, they had submitted that they committed the previous offences. Thereafter, in the presence of the Village Administrative Officer, they gave a confession that on collusion with the lorry tankers, owners, drivers and private farm owners, committed theft by mixing water while milk being transported from Chilling Unit to Aavin and supplied the same to the private parties.



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4. According to the prosecution, A2 and A4 are the owners of the tanker lorry and they colluded with other accused while transporting milk from Chilling Unit to Aavin, they parked the tanker lorry in a private land where some amount of milk was stolen and refilled with water.

5. According to the prosecution, all the accused viz., A1 to A28 conspired together and committed theft of 1800 litres of milk on 19.08.2014. Thereby they were prosecuted.

6. The revision petitions have been filed by A2, A4 and A23 in CrI.RC.No.1314 of 2017, CrI.RC.No.1368 of 2017 and CrI.RC.No.1372 of 2017 respectively.

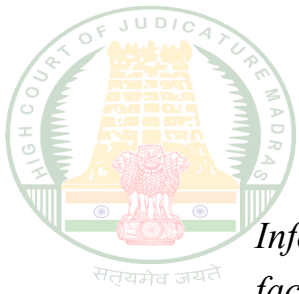
7. The prosecution has filed a final report and examined as many as 75 witnesses.



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8.Learned counsel for the petitioner would submit that crux of the allegation is that the lorry belonged to A2 and A4 while transporting milk from Chilling Unit to Aavin, they parked the lorry in a private land and theft has been committed and milk has been adulterated. In this regard, as per the directions of this Court, an enquiry was conducted by the officers and submitted a report. A report indicated that there was no theft occurred on 19.08.2014 and there was no adulteration. The enquiry report submitted by Aavin has not been disputed by the prosecution.

9.The fact remains that normally this Court will not interfere in the final report, but at the same time when the entire materials collected by the prosecution do not constitute any of the offences and keeping the prosecution will not serve any purpose. Such a final report can be very well interfered with as held by the Hon'ble Apex Court in the case of *State of Haryana and others v. Bhajan Lal and others* reported in *1992 Supp (1) Supreme Court Cases 335*, wherein, it is held as follows :



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“..... (a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

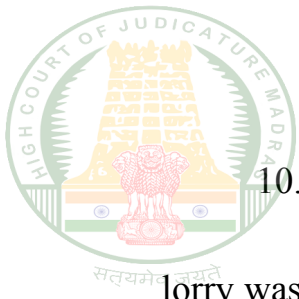
(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”



10. Prosecution relied upon, a confession statement to the effect that the lorry was parked in a private land at the relevant point of time and some amount of milk had been stolen. In this regard, an enquiry was conducted by Aavin and a report has also placed before this Court indicated that no theft had occurred and in fact there was no damage on the seal of the tanker lorry and they have not found any adulteration in milk.

11. Further, from the entire materials of the prosecution, to substantiate allegation of adulteration, neither sample was collected nor sent for expert opinion.

12. Further, except the confession of the co-accused, which will have no evidentiary value as against other accused, no other material is available to prove the charges. Further, the enquiry conducted by Aavin and a report filed in that regard shows that there was no adulteration in milk. Therefore, by continuing the prosecution initiated in the year 2014, no purpose will be served. In fact, continuing the prosecution for all these years violates speedy trial concept and also violates Article 21 of Constitution of India.



13.Though A24 alone filed a petition to quash the final report, considering the entire materials available on record, this Court is of the view that the entire final report is liable to be quashed.

14.Accordingly, C.C.No.1 of 2016 pending on the file of Chief Judicial Magistrate, Villupuram is quashed and the criminal original petition is allowed.

28.08.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1.The Chief Judicial Magistrate,
Villupuram.

2.The Additional Superintendent of Police,
Crime Branch C.I.D., Villupuram Range,
Villupuram. (Crime No.5 of 2014).

3.The Public Prosecutor,
High Court of Madras.



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N.SATHISH KUMAR, J.

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