



Crl.O.P.No. 27346 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2025

CORAM:

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

Crl.O.P.No.27346 of 2023 and
Crl.M.P.No.18964 of 2023

Dev. Balamurugan

... Petitioner

Vs.

1.The State rep. by its
Inspector of Police,
HUDCO Police Station,
Chennai 600 082.
Crime No.64 of 2021.

2.Arunraj

3.Harish

4.Narayanasamy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the records with regard to the final report filed in C.C.No.88 of 2023 on the file of the Judicial Magistrate No.2, Hosur and set aside the same and consequently



Crl.O.P.No. 27346 of 2023

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order Denova Investigation / Reinvestigation by an independent investigating agency and file a fresh final report.

For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.R.Vinothraja,
Government Advocate (crl.side)
for R1.

ORDER

This Criminal Original Petition has been filed challenging the final report filed in C.C.No.88 of 2023 on the file of the learned Judicial Magistrate No.2, Hosur

2. The petitioner is the complainant in the case. Based on the complaint lodged by the petitioner, the first respondent registered the FIR in Crime No.64 of 2020 for the offences under Section 294(b), 341, 323, 427 and 506(1) of IPC as against the three accused persons. The case of the prosecution is that A1 is none other than the brother of the petitioner and A2 and A3 are his friends. There was some property dispute between the petitioner and A1. On 26.02.2020 at about 5.00 pm,



Crl.O.P.No. 27346 of 2023

WEB COPY

while the petitioner was traveling in the car bearing TN 70 Q 0777 from Chithanapalli, the accused persons were also proceeding in their car from the opposite direction. The accused persons immediately alighted from their vehicle and A1 dragged the petitioner out of his car and assaulted him with an intention to murder him. While A2 and A3 held the petitioner, A1 took out a country made gun and shot at the petitioner. Fortunately, the shot hit the petitioner's car and the petitioner managed to escape. That apart, the accused persons caused severe damage to the petitioner's car. Despite this, the first respondent did not register any offence under Arms Act but merely registered the offences under Section 294(b), 341, 323, 427 and 506(1) of IPC. After completion of investigation, the final report was filed for the very same offences, even though the petitioner had specifically stated that A1 had shot at him with a country made gun and that too without any license.

3. The learned Government Advocate (crl.side) would submit that there is no material to attract offence under Arms Act as against A1. There was no gunshot from A1 and no recovery was made in this regard.



Crl.O.P.No. 27346 of 2023

WEB COPY

That apart, investigation has already been completed and the final report has been filed which has been taken cognizance by the Trial Court in C.C.No.88 of 2023. If at all any material is found, the petitioner may invoke Sections 216 and 319 of Cr.P.C during the trial.

4. Heard both sides. Perused the material available on record.

5. On perusal of the records, this Court finds that the petitioner was indeed shot at and fortunately, the petitioner escaped from the gunshot. The petitioner's submission is supported by the accident register recorded by the Chief Medical Officer, Government Hospital, Hosur. The medical record specifically mentions that the petitioner was attacked with a rifle near Chithanapalli Village at 5.00 p.m on 26.02.2020. However, it appears that the first respondent did not investigate the possibility of an offence under the Arms Act and proceeded to file the final report without considering the crucial aspect.



Crl.O.P.No. 27346 of 2023

WEB COPY

6. In view of the above, the petitioner has made out a *prima facie* case for further investigation in Crime No.64 of 2020. In this regard, the first respondent is directed to conduct further investigation into the matter and file an additional report within a period of twelve weeks from the date of receipt of a copy of this order. In the meanwhile, the trial in C.C.No.88 of 2023 shall be kept in abeyance until the filing of the additional report.

7. With the above direction, the Criminal Original Petition is disposed of. Consequently, connected miscellaneous petition is closed.

13.02.2025

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



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Crl.O.P.No. 27346 of 2023

G.K.ILANTHIRAIYAN, J.

shk

To

1. Judicial Magistrate, No.2, Hosur.
2. The Inspector of Police,
HUDCO Police Station,
Chennai 600 082.
Crime No.64 of 2021.
3. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.27346 of 2023 and
Crl.M.P.No.18964 of 2023

13.02.2025