



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2025

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CORAM:
THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.25051 of 2025

P.Periyasamy,
Deputy Superintendent of Police, DCB,
Theni District.
Residence at 39, 40-7, Perual Kovil Street,
Pappanaickenpalayam,
Coimbatore – 641 037.

... Petitioner

Vs.

State rep. by Inspector of Police,
Saibaba Colony Police Station,
Coimbatore District.
(Crime NO.1024/2017)

..Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C. to call for the records relating to the adverse remarks passed against the petitioner by the V Additional Sessions Judge, Coimbatore at paragraph no.15 of the judgment in S.C.No.154 of 2018 dated 31.07.2025 and expunge the same.

For petitioner : Mr.C.Iyyaparaj
for Mr.M.D.Ilayaraja
For respondent : Mr.K.M.D.Muhilan
Addl.Public Prosectuor

ORDER

This criminal original petition has been filed to call for the records relating to the adverse remarks passed against the petitioner by the V Additional Sessions Judge, Coimbatore (for brevity “the Trial Court”) at paragraph no.15 of the judgment dated 31.07.2025 in S.C.No.154 of 2018 and expunge the same.

**Brief facts:**

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2.1 On 16.10.2017, P.W.1, father of one Rukshana, gave a complaint stating that his daughter who had gone out, did not return home. Based on the said complaint, Anbarasan (P.W.23), Station House Officer, registered a case in C.S.R.No.297 of 2017 on 19.10.2017. Thereafter, on 22.10.2017, an FIR in Crime No.1024 of 2017 was registered under the caption “woman missing” and one Saravanan (P.W.25) was appointed as the Investigating Officer.

2.2 During the course of investigation, on 23.10.2017, one Prasad, surrendered and confessed having committed the murder of Rukshana. Saravanan (P.W.25) recorded the confession of the said Prasad and thereafter, altered the case to one under Sections 302 and 201 IPC, on the same day. While the investigation was going on, Saravanan (P.W.25) was transferred to some other station and thereafter, the petitioner continued with the investigation and after conducting scientific investigation and collecting materials, filed a final report on 11.11.2018 for the offences under Sections 302, 201, 364 and 404 IPC before the Magistrate concerned, pursuant to which, the case was committed to the Court of Session, Coimbatore and made over to the Trial Court.



2.3 The Trial Court, after hearing the accused, framed charges against the accused for the offences under Sections 302, 201, 364 and 404 IPC. After a full fledged trial, the Trial Court found the accused guilty of the offences under Sections 302, 364 and 201 IPC, but, acquitted him of the charge under Section 404 IPC.

2.4 The Trial Court, finding that the acquittal of the accused of the charge under Section 404 IPC was on account of lapses in the investigation by Saravanan (P.W.25) and the petitioner, made adverse remarks about them at paragraph 15 of the judgment and also directed the superior officials to initiate disciplinary proceedings against the petitioner and Saravanan (P.W.25). Seeking to expunge the said adverse remarks, the present criminal original petition has been filed by the petitioner, who is P.W.12.

3. Mr.C.Iyyapparaj, learned counsel representing Mr.M.D.Ilayaraja, learned counsel on record for the petitioner, would submit that the Trial Court, based on the final report, found the accused guilty of the offences under Sections 302, 201 and 364 IPC; however, finding that there were no materials to convict the accused for the offence under Section 404 IPC, acquitted him of the said charge; however, the Trial Court, without giving an opportunity to the petitioner and the I.O. viz., Saravanan (P.W.25), who had conducted investigation, passed adverse



remarks and had also recommended to the Commissioner of Police to initiate disciplinary proceedings against them; it is a settled law that if any acquittal is due to a result of a defective investigation, a finding can be recorded to the effect that departmental action can be directed against the Investigating Officer concerned; but, in this case, the Trial Court has found the accused guilty of the charges under three provisions, except Section 404 IPC and hence, the case cannot be brought under the category of defective investigation; further, the petitioner and Saravanan (P.W.25), the other Investigating Officer, were also not put on notice or given an opportunity of hearing before such adverse remarks were passed against them and under such circumstances, when the case is not one of outright acquittal and no opportunity is given, the adverse remarks against the petitioner deserve to be expunged.

4. Learned Additional Public Prosecutor for the respondent State submitted that in **State of Gujarat vs. Kishanbhai and Others [(2014) 5 SCC 108]**, the Supreme Court has held that if any acquittal is as a result of defective investigation, a finding can be recorded to that effect and departmental action can be directed to be initiated against the Investigating Officer concerned; the Trial Court, finding that the investigation in respect of offence under Section 404 IPC has not been properly done, had acquitted the accused of the said charge and hence, directed the Commissioner of



Police to take action against the petitioner and the other I.O. (P.W.25).

However, he fairly admitted that it is not a case of outright acquittal and the

accused were found guilty of the offences under Sections 302, 201 and 364

IPC and they were sentenced to undergo life imprisonment, whereas, the

Trial Court, finding that there are lapses in the investigation which resulted

in the acquittal of the charge under Section 404 IPC (*Dishonest*

misappropriation of property possessed by deceased person at the time of

his death), has passed adverse remarks against the petitioner and the other

I.O. (P.W.25), that too, without affording an opportunity to the said duo

before passing such adverse remarks.

5. Heard both sides and perused the materials available on record, including the deposition of witnesses.

6. Having gone through the entire judgment of the Trial Court, this Court is of the opinion that such adverse remarks against the petitioner and in particular, the other I.O. (P.W.25), who has not approached this Court, are unwarranted. As fairly conceded by the learned Additional Public Prosecutor and distinguishably, the case of **Kishanbhai**, *supra*, is one of outright acquittal, whereas, in the case on hand, as already alluded to above, the accused has been convicted of three charges and sentenced to life imprisonment and acquitted only of the charge under Section 404 IPC and hence, the reliance placed by the learned Additional Public Prosecutor on **Kishanbhai**, *supra*, cannot be of any avail to the respondent police.



7. In view of the foregoing discussion, the adverse remarks made against the petitioner and other I.O. (P.W.25) at paragraph no.15 of the judgment in S.C.No.154 of 2018 deserve to be expunged and accordingly stand expunged.

8. *Ex consequenti*, this criminal original petition stands allowed. Needless to state that the benefit of this order will enure to the other I.O. (P.W.25) also who is similarly placed but has not chosen to approach this Court.

20.11.2025

vsi/cad



To

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1. The Inspector of Police
Saibaba Colony Police Station
Coimbatore District.
2. The V Additional Sessions Judge
Coimbatore
3. The Public Prosecutor
High Court of Madras

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A.D.JAGADISH CHANDIRA, J.

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