



CRL RC(MD)No.136 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 28.08.2025

PRONOUNCED ON : 21.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.136 of 2025

and

CRL MP(MD)No.1478 of 2025

D.Santhakumari

.... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanyakumari District.

2.Rajapakthar

... Respondents

*(R-2 is impleaded as per order of the Court dated
24.02.2025 in Crl.M.P.(MD)No.2451 of 2025 in
Crl.RC(MD)No.136 of 2025)*

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records relating to the adverse remarks passed against the petitioner by the learned IInd Additional Sub Judge, Nagercoil in Paragraph No. 8(v), (vi), (ix) & (x) at page Nos. 16,18, 21 and 22 of Judgment in S.C.No.417 of 2023 dated 29.10.2024 and expunge the remarks passed against the petitioner and relieve the petitioner



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from all such proceedings initiated on the basis of such remarks.

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For Petitioner : Mr.C. Rajakumar
For R-1 : Mr.M.Sakthikumar,
Government Advocate
For R-2 : No appearance

ORDER

Prologue:

This Criminal Revision is at the instance of the then in-charge Inspector of Police (PW-6) seeking expunction of adverse personal remarks recorded against her in S.C. No.417 of 2023 on the file of the learned II Additional Sub Judge, Nagercoil. The acquittal of the accused is not under challenge; the grievance is confined to (i) disparaging strictures, and (ii) a forward-looking recommendation that the Government “not entrust future investigations” to the petitioner.

2. The issue raised herein touches a delicate judicial balance between the evaluative autonomy of the learned Trial Court and the protection of individual fairness for officers whose conduct comes under judicial scrutiny. A learned Trial judge, as the first sentinel of the



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criminal process, is not merely an arbiter of guilt or innocence but also a constitutional watchdog ensuring that investigation is conducted promptly, lawfully, and with due care. The power to comment upon investigative deficiencies is integral for maintaining discipline within the criminal administrative system. Yet such autonomy, however essential, must operate within the bounds of fairness, reasoned necessity, and procedural propriety.

3. The question, therefore, is not whether the learned Trial Court could comment on the quality of investigation; it assuredly can, but whether, in doing so, it could proceed to stigmatise individual officers with forward-looking disqualifications without notice. For reasons set out below, this Court holds that while the learned Trial Court's evaluative autonomy deserves reaffirmation, the impugned remarks must be considered after affording opportunity of hearing to both PW-6 and PW-7, in accordance with the principles laid down in ***State of U.P. v. Mohd. Naim***¹.

¹ AIR 1964 SC 703



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Facts of the prosecution case:

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4. The occurrence is alleged to have taken place on 04.09.2020 at about 3.30 p.m. near the Keelamaravankudieruppu canal-bridge locality. The accused is said to have abused PW-1, attacked him with an aruval / bill hook, caused an injury on the left forearm, robbed Rs. 320/- (Rupees Three Hundred only) and criminally intimidated him.

5. PW-5, then Sub-Inspector of Police, registered Crime No.895 of 2020 for offences under Sections 341, 294(b), 307, 394, 506(ii), and 195-A IPC. The petitioner (PW-6) was only the in-charge Inspector of Kottar Police Station from 04.09.2020 to 08.09.2020. During that brief tenure, she visited the scene, prepared the observation mahazar and rough sketch, examined witnesses, sent material objects to the Court and, on 07.09.2020 secured the accused who was discharged from the hospital and produced him for remand on 08.09.2020. On 23.11.2020, she handed over the case diary to the regular Inspector/Deputy Superintendent of Police (PW-7), Kottar Police Station, who conducted further investigation and filed the final report on 26.07.2022.

6. The case was taken on file as P.R.C. No.55 of 2023, committed



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to Sessions and numbered as S.C. No.417 of 2023. The learned Trial court framed charges under Sections 341, 294(b), 307, 394 and 506(ii) IPC. PW-1 to PW-7 were examined; Exs. P-1 to P-7 and M.Os.1 to 4 were marked.

Gist of the learned Trial Court Judgment:

7. Upon appreciating contradictions *inter se* PW-1 and PW-2 on (a) exact place of occurrence and (b) sequence of hospital/police station events, the nature of injury certified by PW-3 (doctor), and the investigation narrative of PW-5 and PW-6, the learned Trial Court extended the benefit of doubt and acquitted the accused under Section 235(i) CrPC., 1973.

8. While being so, acquitting, the learned Trial Court, in paragraph 8 (v), (vi), (ix) and (x) (at pages 16, 18, 21 and 22 of the judgment), proceeded to: (a) cast personal aspersions on the competence and credibility of PW-6; (b) question her fitness to investigate; and (c) “recommend” that the Government not entrust future investigations to her, and also directed that copies be sent to the Superintendent of Police for “necessary further action.” It is these



personal strictures and forward-looking recommendations that are under challenge in this revision.

Grounds in Revision:

9. The petitioner urges, *inter alia*, that she was only a stop-gap in-charge Investigation Officer for four days and that the final report was prepared and filed by PW-7. The remarks were made without notice or an opportunity to explain, though the consequences are civil and stigmatic. The Court could have recorded case-bound reasons for acquittal without entering into career-impairing conclusions. The three-fold test in **State of U.P. v. Mohd. Naim**², is not satisfied and the guidance in **State (NCT of Delhi) v. Pankaj Chaudhary**³, **S.K. Viswambaran v. E. Koyakunju**⁴, **Dr. Dilip Kumar Dea v. State of Assam**⁵, **R.K. Lakshmanan v. A.K. Srinivasan**⁶ and **Niranjan Patnaik v. Sashibhusan Kar**⁷, is squarely attracted.

² AIR 1964 SC 703

³ (2019) 11 SCC 575

⁴ (1987) 2 SCC 109

⁵ (1996) 6 SCC 234

⁶ AIR 1975 SC 1741

⁷ 1986 2 SCC 569



Submissions:

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10. The learned counsel for the petitioner Mr.Rajakumar submitted that *audi alteram partem* applies where remarks entail civil consequences. Even if couched as “recommendation,” a judicial proscription against future investigative work is stigmatic and travels beyond the case. He further pointed out that the remarks were not necessary for adjudicating guilt and were based on a contested appreciation of four days, part-investigation, and ignored that PW-7 filed the charge-sheet two years later. Categorically contending that the test laid down by the Hon’ble Apex Court in ***State of U.P. v. Mohd. Naim***⁸ that (i) party heard, (ii) evidence bearing on conduct, (iii) necessity for the decision of the case, are not met, he insisted that the revision petition be allowed.

11. The learned Government Advocate Mr.M.Sakthikumar contended that the observations are case-bound, prospective and advisory, intended to safeguard investigation quality, without directing disciplinary action. The acquittal, it is urged, flowed from investigative lapses noticed on the record and a Court is not powerless to comment on systemic deficiencies. Reliance is placed on the proposition that an

⁸ AIR 1964 SC 703



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Investigating Officer need not be separately noticed for every case-related observation.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

13. *Points for Determination:*

(i) Whether the adverse personal remarks and recommendations against PW-6 were necessary for the decision of the criminal case?

(ii) Whether such remarks could be made without putting the officer on prior notice or giving an opportunity to be heard?

(iii) Whether the same principle applies to PW-7, who filed the final report, if his conduct is also subject to judicial comment?

(iv) What is the proper course of action in the facts of the case?

Analysis:

14. The Supreme Court in ***State of U.P. v. Mohd. Naim***⁹ framed

⁹ AIR 1964 SC 703



the canonical tests for expunction: (a) whether the party whose conduct in Question was before the Court or had an opportunity to explain or defend himself; (b) whether there is evidence on record bearing on that conduct justifying the remarks; and (c) whether it was necessary for the decision to animadvert upon such conduct.

15. The said rule has been repeatedly reaffirmed in the cases of **S.K. Viswambaran v. E. Koyakunju¹⁰**, **State (NCT of Delhi) v. Pankaj Chaudhary¹¹**, **Dr. Dilip Kumar Dea v. State of Assam¹²**, **Niranjan Patnaik v. Sashibhusan Kar¹³**, **R.K. Lakshmanan v. A.K. Srinivasan¹⁴**, emphasising judicial restraint, avoidance of gratuitous disparagement, and the duty to hear where remarks may carry civil or career consequences.

16. The learned Trial Court had sufficient evidentiary inconsistencies *inter se* contradictions among P.W-1 and P.W-2, nature of injury, and place-of-occurrence, uncertainty, to justify acquittal

¹⁰ (1987) 2 SCC 109

¹¹ (2019) 11 SCC 575

¹² Supra 5

¹³ 1986 2 SCC 569

¹⁴ AIR 1975 SC 1741



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without pronouncing upon the petitioner's or PW-7's professional competence. The sweeping conclusions in paragraph No. 8(v), (vi), (ix) & (x) were not integral to recording reasonable doubt. Hence, the adverse remarks ought to have been passed only after affording an opportunity of hearing to the petitioner (PW-6).

17. Though PW-6 and PW-7 deposed as witnesses, they were not parties in their personal capacities. Noticing that, no notice preceded the stigmatic recommendations, and no questions under Section 165 of the Evidence Act, 1872, were put to them, on the very lapses later treated as the basis for condemnation, I am of the considered view that, the *audi alteram partem* requirement therefore stands breached.

18. The record indicates that both PW-6 (in-charge Inspector) and PW-7 (regular Inspector) sequentially handled the investigation. It is also brought on record that the latter officer had filed the final report after a lapse of 2 years. Any finding on "investigative lapses" must consider the cumulative effect of their actions. Judicial fairness demands that neither officer be condemned unheard. Therefore, the just course is to remit the matter to the learned Trial Court to afford both



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PW-6 and PW-7 an opportunity to submit their explanations limited to the remarks proposed to be retained or modified.

19. Ordinarily, where the ***State of U.P. v. Mohd. Naim***¹⁵ test is breached, the Hon'ble High Court may directly expunge the remarks. However, since the impugned judgment contains detailed factual reasoning interwoven with observations on both Investigating Officers, selective deletion may distort the context. A remand enabling the learned Trial Court to re-examine its observations, after hearing PW-6 and PW-7, preserves judicial discipline and procedural fairness, without erasing the learned Trial Court's evaluative autonomy.

20. The learned Trial Court occupies a pivotal constitutional position in the criminal justice hierarchy. It is the first judicial forum where the raw material of investigation meets the discipline of judicial scrutiny. The learned Trial Judge's evaluative autonomy is therefore not merely procedural, it is an institutional safeguard. Within the bounds of law and fairness, a learned Trial Court is expected to remain the vigilant watchdog of criminal administration, ensuring that investigative agencies discharge their statutory duties with promptitude, objectivity,

¹⁵ AIR 1964 SC 703



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and integrity.

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21. Criminal justice cannot thrive on blind deference to police narratives, nor can it function in an atmosphere of judicial abdication. The learned Trial Court, by its daily engagement with evidence, witnesses, and police papers, is uniquely positioned to detect investigative lapses, systemic delays, and deviations from the mandate of Sections 154 to 173 of the Code of Criminal Procedure, 1973, (now corresponding to Sections 173 to 193 of the BNSS, 2023). This evaluative vigilance fortifies the larger rule of law, signalling that the investigation is not an insulated domain but one accountable to judicial oversight.

22. At the same time, the exercise of such autonomy must remain judicious, restrained, and fair, targeting systemic deficiencies rather than personalised vilification. Constructive criticism of investigative methods, when expressed with institutional sensitivity, reinforces accountability without eroding morale. Thus, the learned Trial Court's autonomy is both a sword and a shield: a sword against investigative indifference, and a shield preserving the integrity of the process from



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capricious or unmerited blame.

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23. In the result, the Criminal Revision is partly allowed by way of remand.

[a] The judgment dated 29.10.2024 in S.C. No. 417 of 2023 to the limited extent of paragraphs 8 (v), (vi), (ix) and (x) containing adverse personal remarks and recommendations concerning PW-6 and PW-7, is remitted to the learned IInd Additional Sub Judge, Nagercoil, to consider whether any such remarks are warranted, after issuing notice to both PW-6 and PW-7 and affording them an opportunity to submit written explanations and/or be heard, strictly applying the ***State of U.P. v. Mohd. Naim***¹⁶ parameters, namely, (a) opportunity of hearing, (b) evidence bearing on conduct, and (c) necessity for the decision of the case.

[b] The learned Trial Court shall thereafter pass a speaking order, either reaffirming, modifying, or deleting the remarks, confining itself to case-bound necessity, within a period of two (2) months from the date of receipt of a copy of this order.

¹⁶ AIR 1964 SC 703



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[c] It is clarified that until such reconsideration, the existing remarks or the communication to the Superintendent of Police shall not operate or be treated as adverse to the service rights or reputation of either officer.

[d] The acquittal of the accused recorded by the learned Trial Court under Section 235(1) Cr.P.C., 1973, stands undisturbed.

[e] It is made clear that, the learned IInd Additional Sub Judge, Nagercoil, will evaluate the investigative lapses, 'if any' without being influenced by any observation in this order. Consequently, connected miscellaneous petition is closed.

Epilogue:

24. Courts may, and often must, comment on systemic lapses that impede criminal adjudication. The architecture of criminal justice rests on the vigilance of its foundation, the Trial Court. As the Court of first instance, it is entrusted not only with the duty of adjudicating guilt or innocence but also with the solemn responsibility of supervising the



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fairness, integrity, and diligence of police investigation. The Trial Judge's evaluative autonomy is therefore an indispensable constitutional safeguard, ensuring that investigative powers remain subject to judicial oversight and never degenerate into unreviewed discretion.

25. While higher Courts are the sentinels of legality, Trial Courts are the sentinels of factual integrity. Their daily engagement with witnesses, exhibits, and case diaries equips them to identify investigative lapses, procedural delays, and evidentiary deficiencies that often decide the fate of a prosecution. Judicial observations pointing out such systemic shortcomings are not only legitimate but also essential as they keep the criminal administration of justice responsive and accountable.

26. At the same time, this autonomy must be exercised with restraint and fairness. Constructive criticism aimed at institutional improvement must be carefully distinguished from personal disparagement. The object of judicial commentary is to refine the system, not to stigmatise its functionaries. Where the Court feels



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compelled to comment adversely on an officer's conduct, it must ensure adherence to the ***State of U.P. v. Mohd. Naim***¹⁷ test that notice, evidence, and necessity so that the fairness which it demands from others remains its own discipline.

27. Thus, the Trial Court's evaluative autonomy operates as a constitutional equilibrium. It empowers the judiciary to monitor investigative diligence while restraining it from overstepping into executive censure. The strength of criminal justice lies in that delicate balance between accountability and fairness, between scrutiny and respect, between vigilance and restraint.

28. In fine, this Criminal Revision case is partly allowed. Consequently, connected miscellaneous petition is closed. No costs.

21.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

¹⁷ AIR 1964 SC 703



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To

- 1.The IInd Additional Sub Judge, Nagercoil.
- 2.The Inspector of Police,
Kottar Police Station,
Nagercoil,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.,

Sml

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