

Crl.O.P.(MD)No.1241 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.1241 of 2025

and

Crl.M.P(MD) No.852 of 2025

1.S.Michael Arul Regan

2. K.K.C. Balaganesan

.. Petitioners

Vs.

1. The Inspector of Police
Central Police Station
Thoothukudi District

2.Muthumari

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for records relating to the First Information Report in Crime No.224
of 2024 on the file of the first respondent police and quash the same as
illegal in so far as the petitioner is concerned.

For Petitioners : Mr.R.Gandhi, Senior Counsel
for Ms. Gandhi Associates

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate(Crl.Side)
No.2 : Mr.G.Karuppasamy Pandian
for Mr.A.Sheik Nasurdeen



Crl.O.P.(MD)No.1241 of 2025

ORDER

WEB COPY

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.224 of 2024 on the file of the first respondent police

2. The learned Senior Counsel appearing for the petitioners would submit that based on the complaint given by the second respondent, the first respondent registered a case in Crime No. 224 of 2024 for the offences under Sections 191(2), 191(3), 49, 296(b), 115(2), 351(3) of BNS and Section 3(1) of TNPPDL Act and Section 4 of TNPHW Act and even according to First Information Report, this petitioner has not participated in the occurrence and only allegation against the petitioner he instigated other accused to commit the said offence. In order to constitute the offence of abetment there are no ingredients and there is only a single word mentioned in the First Information Report that at the instigation of this petitioner and two others the occurrence had happened and thereby the pending First Information Report is liable to be quashed.



WEB COPY

3. The learned Government Advocate(Crl.Side) appearing for the first respondent would submit that based on the complaint given by the second respondent the first respondent registered a case in Crime No. 224 of 2024 for the offences under Sections 191(2), 191(3),49,296(b),115(2), 351(3) of BNS and Section 3(1) of TNPPDL Act and Section 4 of TNPHW Act and the case is still under investigation. At this juncture the petitioner is not entitled to any relief, through this petition.

4. The learned counsel appearing for the second respondent would submit that there is a previous enmity between the petitioner and the defacto complainant and at the instigation of this petitioner the other accused have demolished the house of the defacto complainant and already she made allegations against this petitioner in a press report and thereby inorder to revenge the defacto complainant this petitioner along with other accused demolished the building. Therefore she lodged a compliant by mentioning the name of the petitioner. Now the case is under investigation in preliminary stage, thereby the present petition is liable to be dismissed.



WEB COPY

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

6. This petition is filed to quash the First Information Report and according to the petitioner there are no materials available as against the petitioner to constitute the offence and the petitioner is arrayed alleging that he abetted the offence. In fact the petitioner was not present in the scene of occurrence and he has been falsely implicated. The learned counsel appearing for the petitioner also relied on the following judgments:

a) Sumathi.vs. Selvam in Crl.O.P(MD)No.17228 of 2017

b) Usha Chakraborty and another .vs. State of West Bengal and another reported in 2023 Live Law(SC)67

c)Mahmood Ali and others .vs. State of U.P and ors reported in 2023 Live Law(SC)613

d)Vishnukumar Shukla and another .vs. The State of U.P and another reported in 2023 Live Law (SC)1019

e) Mukesh and Ors .vs. The State of U.P and others reported in 2024,SC 1149

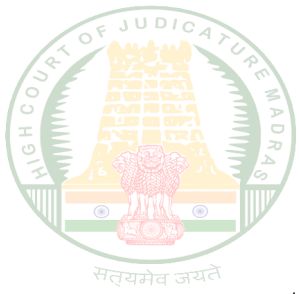


WEB COPY

7. On careful perusal of the above said judgments it is clear that 482 Cr.P.C.,jurisdiction has to be exercised with care and caution sparingly. To exercise of the said power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of process of law and also the criminal proceedings quashed essentially on the ground that such proceedings are manifestly, frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance then in such circumstances the Court owes a duty to look into the First Information Report with care and a little more closely.

8. The learned counsel appearing for the second respondent would submit that there are serious allegations levelled against the petitioner in the First Information Report and based on the First Information Report they conducted investigation and the investigation is in initial stage, therefore the petitioner has to wait till filing of final report. Hence at this stage the petition is liable to be dismissed. Further the learned counsel relied on the following judgments:

a)Ashabakl Machindra Adhagale .vs. State of Maharastra and others reported in Law Finder Doc Id.181416



Crl.O.P.(MD)No.1241 of 2025

b)Kamal Shivaji Pokarnekar .vs. State of Maharastra and others

reported in (2019)14 SCC 350

WEB COPY

c) Mithilainathan and others .vs. The Inspector of Police,
Paramakudi Town Police Staion, Ramanathapuram District in
Crl.O.P(MD) No.4726 of 2017

9. On careful perusal of the above said judgments it is clear that Section 482 does not confer any new powers on the High Court. It only saves the inherent powers which the Court possessed before the enactment of the Code. It envisages three circumstances under which the inherent jurisdiction may be exercised namely

- a) to give effect to an order under the Code
- b) to prevent abuse of the process of Court
- c) to otherwise secure the ends of justice.

and the powers under Section 482 of Cr.P.C., are very wide and the very plenitude of the power requires great caution in its exercise. Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power should not be exercised to stifle a legitimate prosecution. The High Court being the highest court of a State should normally refrain from giving a prima facie decision in a case where



Crl.O.P.(MD)No.1241 of 2025

the entire facts are incomplete and hazy, more so when the evidence has not been collected and produced before the Court and the issues involved, whether factual or legal, are of magnitude and cannot be seen in their true perspective without sufficient material.

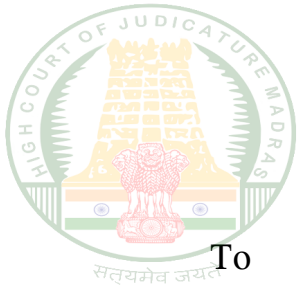
10. In the case on hand also as per the prosecution case there are some allegations levelled against this petitioner to constitute the offence of abetment. Therefore the investigation of the respondent cannot be curtailed at this stage.

11. In view of the above discussions this Court is of the opinion that the prayer of the petitioner cannot be considered at the initial stage and the petitioner is liable to be dismissed.

12. Accordingly the Criminal Original Petition stands dismissed. Consequently connected miscellaneous petition stands closed.

03.03.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
aav



Crl.O.P.(MD)No.1241 of 2025

To

WEB COPY

1. The Inspector of Police
Central Police Station
Thoothukudi District

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.1241 of 2025

P.DHANABAL,J.

aav

Crl.O.P.(MD)No.1241 of 2025

03.03.2025