



Crl.O.P.(MD)No.6055 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.04.2025

CORAM :

THE HON'BLE MR.JUSTICE P. DHANABAL

Crl.O.P.(MD)No.6055 of 2025

Dilsat Begum

... Petitioner

Vs.

1. The Superintendent of Police,
O/o. the Superintendent of Police,
Virudhunagar, Virudhunagar District.

2.The Inspector of Police
Veeracholan Police Station,
Veeracholan, Thiruchuli Taluk
Virudhunagar District.

3.Basheer Ahmed
4.Samsudeen
5.Muhammed Sathick Ali
6.Ahmed Abdul Kadhar
7.Kathar Mugaidheen
8.Amba Ahmed Musthafa
9.Kaka Razak
10.Meera
11.Ismayil Kasim
12.Salmankhan
13.Bahrudeen Ali Mohammed @ Babu
14.Ibrahim
15.Asharaf Ali
16.Seyad Muhammed
17.Muhammed Yusuf

... Respondents



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Prayer : Criminal Original Petition filed under Section 528 of BNSS to order the 2nd respondent police to register the case based on the order passed in Crl.M.P.No. 5621 of 2024, dated 06.01.2024 on the file of the learned Judicial Magistrate, Tiruchuli against the 3rd to 17th respondents.

For Petitioner : Mr.M.Arumugam

For R1 & R2 : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

ORDER

This petition is filed by the petitioner to order the second respondent police to register the case based on the order passed in Crl.M.P.No. 5621 of 2024, dated 06.01.2024, on the file of the learned Judicial Magistrate, Tiruchuli, against the respondents 3 to 17.

2. The learned counsel for the petitioner would submit that the petitioner is the defacto complainant in this case and she filed a petition before the Judicial Magistrate, Thiruchuli in Crl.M.P.No. 5621 of 2024 under Section 156(3) of Cr.P.C. and the same was forwarded to the second respondent, but the second respondent without conducting any enquiry, keep the same on pending and also did not register the case.

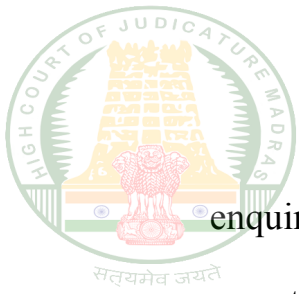
3. The learned Government Advocate (Crl.Side) for the respondents



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1 and 2 would submit that the petitioner has filed the petition under Section 156(3) of Cr.P.C in Crl.M.P.No.5621 of 2024, before the learned Judicial Magistrate, Thiruchuli and the same was forwarded to the second respondent by directing the second respondent to conduct preliminary enquiry and if any cognizance is made out, register the FIR. Based on the same, the second respondent conducted enquiry and the same was closed on 01.03.2025 itself and the closure report also filed before the learned Judicial Magistrate, Thiruchuli. Therefore, the order passed by the learned Judicial Magistrate, Thiruchuli was already complied with.

4. Though the petitioner has filed the petition to comply with the order passed by the learned Judicial Magistrate, Thiruchuli and the same was also considered and closed by the second respondent, at the time of passing of orders, the learned Judicial Magistrate, Thiruchuli has not applied the mind and only passed the three lines order, thereby the order passed by the learned Judicial Magistrate, Thiruchuli itself is not in accordance with law. It is well settled law that the order had to be passed by the learned Judicial Magistrate, Thiruchuli by applying judicial mind, but the learned Judicial Magistrate passed the order, without applying judicial mind, and only directed to respondent police to hold preliminary



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enquiry to ascertain whether any Criminal cognizable offence is made out or not immediately from the receipt of copy of order and there after if any cognizable offence is made out, shall register a case and conduct investigation in accordance with law and shall complete the same within 30 days and shall file report of compliance before this Court.

5. At the time of passing of the order under Section 156(3) of Cr.P.C, if there are *prima facie* materials to make out cognizance, the learned magistrate had to forward the same to register the case and if it is otherwise, the magistrate had to dismiss the petition. However, once again, the learned Judicial Magistrate, ordered for preliminary enquiry. Therefore, the order passed by the learned Judicial Magistrate, Thiruchuli is not in accordance with law. Though the petitioner has not challenged the order, now approached this Court to execute the order to register the case. Once the learned Magistrate passed order under Section 156(3) of Cr.P.C, it is the duty of the police to register the case and thereafter, they have to conduct investigation and file Final Report. But, the order passed by the learned Judicial Magistrate, Thiruchuli was misunderstood by the second respondent. Therefore, this Court, by invoking Section 528 of BNS, is inclined to set aside the order passed by the learned Judicial



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Magistrate, Thiruchuli and the matter is remanded back to the Trial Court for passing appropriate order after applying judicial mind.

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6. In view of the same, the order passed by the learned Judicial Magistrate, Thiruchuli, in Crl.M.P.No.5621 of 2021, dated 06.01.2024, is set aside and the matter is remanded back to the learned Judicial Magistrate, Thiruchuli for passing appropriate order in accordance with law.

7. With the abovesaid observations and directions, this Criminal Original Petition is allowed.

02.04.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes

apd

To

1.The Superintendent of Police,
O/o. the Superintendent of Police,
Virudhunagar, Virudhunagar District.

2.The Inspector of Police
Veeracholan Police Station,
Veeracholan, Thiruchuli Taluk
Virudhunagar District.

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

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P. DHANABAL, J.,

apd

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