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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P(MD) No.10075 of 2025

and

W.M.P.(MD) No.7517 of 2025

V.Kannan ... Petitioner

vs.

1.The Sub Inspector of Police,
Thenkarai Police Station,
Theni District.

2.The Inspector of Police,
Thenkarai Police Station,
Theni District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India to issue a Writ of Mandamus to direct the respondents not to arrest the petitioner in connection with the criminal case in Crime No.562 of 2024 pending investigation on file of the 1st respondent and it is humbly prayed that this Court may direct the respondents to strictly adhere to the judgement and guidelines of the Hon'ble Supreme Court of India in the case of Arnesh Kumar Vs. State of Bihar (2014) 8 SCC 273 and Satender Kumar Antil Vs. Central Bureau of Investigation (2022) 10 SCC 51 in

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respect of Crime No.562 of 2024 dated 21.12.2024.

For petitioner :Mr.V.Pavel

For respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl side)

*****

O R D E R

This petition is filed by the petitioner to direct the respondents not to arrest the petitioner in connection with the case in Crime No.562 of 2024 on the file of first respondent.

2. The learned counsel for the petitioner would submit that the petitioner's son namely, Ramesh got married with one Sudha on 15.11.1999. Due to the wedlock, they begot two children and thereafter, the petitioner's daughter-in-law and others started an agricultural college in the name and style of M/s.Krishna College of Agriculture and Technology at Usilampatti Taluk, presided by Mr.Chandrasekar. While so, they demanded money for a sum of Rs.2 crores from the petitioner to complete the said work. He also paid a sum of Rs.1.50 crores. Due to non-payment of full amount they enraged upon the petitioner. They started to misbehave and caused persistent disturbances and nuisance to the petitioner. While so, the petitioner's daughter-in-law and others criminally

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trespassed into the petitioner's house and looted away the documents and criminally intimidated him. Thereafter, he lodged a complaint, but the same was not considered by the concerned police. Thereafter, the petitioner filed a Writ Petition in W.P.(MD) No.18638 of 2021, for a Writ of Mandamus, directing the Revenue Authority to take appropriate action by disposing of the petitioner's representation in respect of issuance of OBC-Non Creamy Layer Certificate to one Mouri Krishna.

3. The learned counsel would further submit that the Theni District Police Personnels have also been issuing police notice on the multiple complaints namely, robbing of 200 sovereigns jewels, criminal intimidation, damaging the properties and sexual harassment and thereafter, the case was quashed by this Court. The petitioner also filed the Writ Petition before this Court to direct the Tahsildar. Periyakulam to file a complaint before the jurisdictional Magistrate under Section 215 and 379 of BNS for the crime committed by the Mouri Krishna under Sections 212 and 236 of BNS and the same is pending. While so, the respondent foisted false case against the petitioner in Crime No.562 of 2024 and issued summons on 04.04.2025 directing him to appear for enquiry on 07.04.2025. In the summons, it is alleged that one Nandhakrishnan, who

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is the grandson of the petitioner, has lodged the complaint against the petitioner and they registered the case in Crime No.562 of 2024 for the offences under Sections 296(b), 79, 351(2) of BNS and Section 67 of Information Technology Act. After four months from its registration, the respondents, all of a sudden, issued a summons for the abovesaid offences, which are punishable upto 7 years and thereby, the respondent police again harassed the petitioner. Therefore, he filed this petition to direct the respondent police not to arrest the petitioner in connection with the Crime No.562 of 2024.

4. The learned Additional Public Prosecutor (Crl side) for the respondents would submit that based on the complaint lodged by Nandhakrishna, they registered the case in Crime No.562 of 2024 for the offences under Sections 296(b), 79, 351(2) of BNS and Section 67 of Information Technology Act as against the petitioner and others, and the same is now under investigation. Thereafter, they issued summons to the petitioner for appearance, but he did not appear and immediately filed this petition. Once summons is issued, it is for the petitioner to appear in pursuance of the summons. Therefore, the attitude of the petitioner shows his intention. Therefore, the petition is liable to be dismissed.

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5. This Court heard both sides and perused the records.

6. The petitioner is an accused in Crime No.562 of 2024, for the offences under Sections 296(b), 79, 351(2) of BNS and Section 67 of Information Technology Act and now filed this petition not to arrest the petitioner, since the offences are punishable upto 7 years. In ***Arnesh Kumar Vs. State of Bihar*** reported in ***(2014) 8 SCC 273 and Satender Kumar Antil Vs. Central Bureau of Investigation*** reported in ***(2022) 10 SCC 51***, wherein the Hon'ble Supreme Court issued guidelines and it is for the respondents to follow the guidelines issued by the Hon'ble Supreme Court.

7. Further, the particular order, namely, not to arrest, cannot be ordered by this Court and it is for the respondents to decide the same in accordance with law as per the abovesaid judgements. The petitioner has not file any application for seeking Anticipatory Bail and without approaching the appropriate forum for grant of Anticipatory Bail, filed this petition. The respondent also only issued summons for appearance. If so, the petitioner has to appear for enquiry. During the investigation the respondent has to decide whether arrest is necessary or not. No doubt the

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respondents has to follow the guidelines issued by the Hon'ble Court and the provision of Cr.P.C. in respect of arrest. The respondents also, considering the nature of offence, without arresting the accused, only issued summons, but the petitioner, without responding the summons, filed this petition, without any apprehension for arrest. Therefore, this petition has no merits and deserves to be dismissed.

8. In view of the above, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

09.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
apd

To

1.The Sub Inspector of Police,
Thenkarai Police Station,
Theni District.

2.The Inspector of Police,
Thenkarai Police Station,
Theni 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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