



Crl.O.P(MD)No.7447 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2025

CORAM

THE HONOURABLE MR.JUSTICE P. DHANABAL

Crl.O.P(MD)No.7447 of 2025

Kanagarathinam

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep. by the Superintendent of Police,
O/o. Superintendent of Police,
Tenkasi District.

2. The Deputy Superintendent Of Police,
O/o. Deputy Superintendent of Police,
Sankarankovil,
Tenkasi District.

3. The Inspector of Police,
Thiruvengadam Police Station,
Thiruvengadam,
Tenkasi District.

4. Murugavelsamy

5. Rathinavel

6. Panneervel

... Respondents



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PRAYER: Criminal Original petition has been filed under Section 528 of BNSS to direct the third respondent to register the First Information Report as per the order passed by the learned Judicial Magistrate Court, Sankarankovil in Cr.M.P.No.1121 of 2024 dated 11.11.2024 within a stipulated time that may be fixed by this Court.

For Petitioner : Mr.P.Ponraj

For R1 to R3 : Mr.M.Sakthi Kumar
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed seeking a direction to the third respondent to register the First Information Report as per the order passed by the learned Judicial Magistrate Court, Sankarankovil in Cr.M.P.No.1121 of 2024 dated 11.11.2024.

2.The learned Counsel for the petitioner would submit that the petitioner lodged a complaint against the respondents 4 to 6 before the



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learned Judicial Magistrate, Sankarankoil under Section 175(3) of BNS and the same was forwarded to the third respondent and thereafter, the third respondent has not conducted proper enquiry and without registering an FIR kept the complaint pending. Hence this petition.

3.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that petitioner lodged a complaint against the respondents 4 to 6 before the learned Judicial Magistrate, Sankarankoil under Section 175(3) of BNSS and the same was forwarded to the third respondent and thereafter, the petitioner has not co-operated for enquiry, thereby, they closed the complaint and filed a report before the learned Judicial Magistrate, Sankarankoil. Therefore, the order of the trial Court was complied with and hence nothing survives for further adjudication in this matter.

4.Considering the limited scope of the prayer sought for in this petition, this Court, without even issuing notice to the private respondents, is inclined to pass order.

5.According to the petitioner, he filed a complaint against the



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respondents 4 to 6 before the learned Judicial Magistrate, Sankarankoil under Section 175(3) of BNSS in Cr.M.P.No.1121 of 2024 and the same was forwarded to the third respondent and thereafter, the third respondent has not conducted proper enquiry and without registering an FIR kept the complaint pending. The third respondent also admitted that no FIR has been registered based on the order passed by the learned Judicial Magistrate, Sankarankoil, in Cr.M.P.No. 1121 of 2024 and he conducted enquiry and closed the same due to non co-operation of the petitioner.

6.It is well settled law that as far as passing order under Section 175(3) of BNSS is concerned, the Magistrate ought to have passed order after applying judicial mind satisfying the *prima facie* material to constitute the offences. But, the learned Judicial Magistrate, Sankarankoil passed order directing the third respondent to conduct enquiry and based on the enquiry, the third respondent shall act in accordance with law.

7.The third respondent also without registering an FIR conducted enquiry and closed the complaint. The Magistrate has not passed order after applying judicial mind and without following the procedures



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contemplated under Section 175(3) of BNSS.

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8.At this juncture, the learned Counsel for the petitioner relied upon the following judgments:

(i)***Hemant Yashwant Dhage Vs. State of Maharashtra and others*** reported in ***(2016) 6 SCC 273***;

(ii) ***Mohd. Yousuf Vs. Afaq Jahan and another*** reported in ***(2006) 1 SCC 627*** and

(iii)***Saravanan Vs. The Inspector of Police, Thirupattur Town Police Station***, in ***Crl.R.C.No.1527 of 2022*** on the file of this Court.

9.On a careful perusal of the said judgment it is clear that the Magistrate has to pass order after applying judicial mind while passing order under Section 156(3) of Cr.P.C equivalent to Section 175(3) of BNSS and once the complaint under Section 156(3) of Cr.P.C was forwarded to the Police, they have to register an FIR and to conduct investigation. In the case on hand also the petitioner filed a petition under Section 156(3) Cr.P.C and the same was forwarded to the respondent police station. Therefore, the respondent police ought to have



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registered an FIR, but not done so. Though the petitioner has not challenged the order passed by the Magistrate, this Court to secure the ends of justice inclined to set aside the order passed by the learned Magistrate.

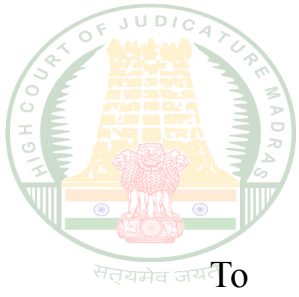
10. Therefore in view of the above, this Court is inclined to set aside the order passed by the learned Judicial Magistrate, Sankarankoil. This Court directs the learned Judicial Magistrate, Sankarankoil, to pass orders after applying the judicial mind within a period of one month from the date of receipt of a copy of this order.

11. Since the main order itself is set aside, the subsequent proceedings conducted by the respondent police without following the procedures is also quashed.

12. With the above direction, this criminal original petition is disposed of.

24.04.2025

Internet: Yes
Index : Yes/No
NCC : Yes/No
LR



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To
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Sankarankovil.
2. The State of Tamil Nadu,
Rep. by the Superintendent of Police,
O/o. Superintendent of Police,
Tenkasi District.
3. The Deputy Superintendent Of Police,
O/o. Deputy Superintendent of Police,
Sankarankovil,
Tenkasi District.
4. The Inspector of Police,
Thiruvengadam Police Station,
Thiruvengadam,
Tenkasi District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P. DHANABAL, J.

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