



CRL RC(MD)No.676 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.676 of 2025

1.Jayaraj

2.S.Kannan

3.Vijayapandian

... Petitioners / Petitioners /
Respondents

Vs.

1.State, Rep. by,
The Inspector of Police,
CBCID Police,
Thiruchirapalli District,
(In crime No.1 of 2016)

... 1st Respondent / 1st respondent
Complainant

2.T.S.Pasupathy

... 2nd Respondent / 2nd respondent
De-facto Complainant

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, to call for the records and set aside the order dated 20.05.2025 in Cr.M.P.No.10555 of 2025 in C.C.No.437 of 2021 on the file of the learned Judicial Magistrate No.VI, Thiruchirapalli.

For Petitioner : Mr.Karuppasamy Pandian,
For P.Edin Brough

For R-1 : Mr.S.Ravi,
Additional Public Prosecutor

For R-2 : Mr.C.Mahadevan



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ORDER

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This Criminal Revision Case has been filed challenging the order dated 20.05.2025 passed by the learned Judicial Magistrate, No.VI, Tiruchirapalli, in CrI.M.P. No.1055 of 2025 in C.C. No.437 of 2021, whereby the discharge petition filed by the petitioners/accused under Section 239 Cr.P.C., 1973, came to be dismissed.

2. The petitioners herein are arrayed as accused in C.C. No.437 of 2021, while the second respondent is the *de facto* complainant.

3. *Factual Background:*

The case has its genesis in a complaint lodged by the second respondent before the Cantonment Police Station, Trichy, against the petitioners. Based on the said complaint, a case was registered. Later, the case was transferred to the first respondent police, who, upon investigation, filed a referred charge sheet categorising the case as one of “mistake of fact.” Aggrieved by the referred charge sheet, the second respondent filed a protest petition after a lapse of three years from the date of referred notice. On the strength of the protest petition, cognizance was taken by the learned Magistrate in C.C. No.437 of 2021



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for offences under Sections 147, 341, 294(b), 323, and 506 (I) IPC. It is the specific case of the petitioners that while taking cognizance, the second respondent had shifted his stand from what was originally stated in his complaint before the police.

4. ***Case of the Petitioners:***

The petitioners, all of whom are police officials, contend that the second respondent is a history sheeter and was being lawfully required for investigation in various cognizable cases. On the date of the alleged incident, when the police attempted to arrest him and his family members, they failed to cooperate and, in retaliation, filed a false complaint. It is further contended that the complaint was closed as “mistake of fact” after due investigation by the first respondent police. The CBCID’s report confirmed that the petitioners had obtained permission from their superior officers to proceed with the arrest. Thus, there was no violation of law or excess of authority /arbitrariness. The petitioners argue that the trial court, while dismissing the discharge petition, failed to take note of these facts, including the closure report, the contradictory statements of the *de facto* complainant, and the absence of sanction under Section 197 Cr.P.C., 1973, to prosecute government servants for acts done in the discharge of official duty. They

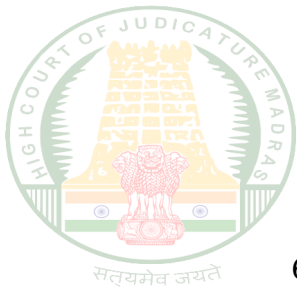


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also placed reliance on the proceedings of the State Human Rights Commission (SHRC), which, though had initially recommended compensation against them, is presently stayed by orders of the Principal Bench of this Court in writ petitions filed by them.

5. *Case of the Second Respondent:*

On the contrary, the second respondent/de facto complainant submitted that the trial court has rightly taken cognizance for offences under Sections 294(b), 323, 354, 506 Part I IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 1988. It is argued that the prosecution witnesses have been examined, and this Court had already directed expeditious disposal of the trial in CrI.O.P. No.1779 of 2024. In spite of such direction, the petitioners have filed the present discharge petition only to protract the proceedings. The second respondent further relied upon the availability of CCTV footage at the Cantonment Police Station, which, according to him, would clearly establish the occurrence and the role of the petitioners. It was contended that sufficient evidence exists to proceed against the petitioners, and hence, dismissal of the discharge petition was fully justified.



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6. Findings of the Trial Court:

The trial court, after hearing both sides, held that:

(i) The prosecution examined P.Ws.1 to 6 under Section 244 Cr.P.C.,1973.

(ii) The defence contention was that the de facto complainant had taken two inconsistent stands from his earlier complaint. However, the court found no specific averment in the discharge petition to establish such inconsistency.

(iii) A perusal of the evidence of the de facto complainant (PW1) showed consistency and sufficiency to proceed with the case.

(iv) The defence version could not be considered at the stage of discharge and could only be tested during cross-examination at trial. On these findings, the trial court dismissed the discharge petition.

7. Submissions on Revision:

(a) Petitioners' Submissions:

The learned Counsel for the petitioners argued:

The Magistrate erred in relying solely upon the testimony of PW1



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while ignoring the rest of the witnesses (Pws.1-6). Section 245(1) Cr.P.C., 1973, requires the Magistrate to consider the entirety of evidence recorded under Section 244 Cr.P.C. Reliance was placed on **R.S. Nayak v. A.R. Antulay**¹, and **Vikramjit Kakati v. State of Assam**², to contend that where only suspicion arises and not grave suspicion, discharge must follow. The Magistrate has applied a standard of “subjective satisfaction,” which is alien to law.

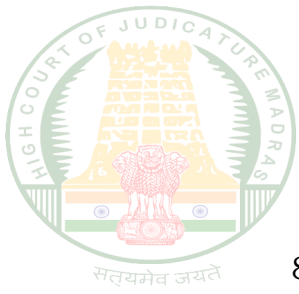
(b) **Submissions of the APP:**

The learned Additional Public Prosecutor, on the other hand, contended:

The order of the trial court is legally sustainable, as even the testimony of a single witness (PW1) is sufficient to raise a prima facie case. A conjoint reading of Sections 244 and 245 Cr.P.C., 1973, makes it clear that discharge can be refused even on the strength of one witness if the testimony discloses a case. The petitioners had earlier filed CrI.O.P. No.13353 of 2021 seeking quashing of the charge sheet, which was dismissed by this Court on 31.08.2021. Suppression of this fact in the discharge petition reflects lack of bona fides. Sanction under Section 197 Cr.P.C., 1973, is not required for police officers below the rank of Deputy Superintendent of Police.

¹ (1986) 2 SCC 716

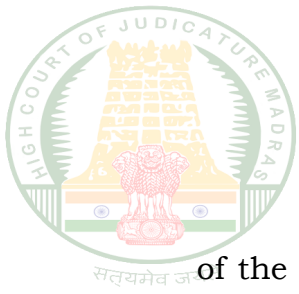
² AIR 2022 SC 3597



8. **Analysis:**

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This Court has carefully considered the rival submissions, the materials placed, and the precedents cited. The primary question that arises for consideration is whether the impugned order of the learned Magistrate refusing discharge suffers from perversity, illegality, or non-application of mind. It is well settled through decisions such as R.S. Nayak (supra) and Vikramjit Kakati (supra) that at the stage of discharge, the court must examine whether the material on record, if unrebutted, would warrant a conviction. If two views are possible and one only raises a mere suspicion (as opposed to grave suspicion), the accused must be discharged. However, it is equally well settled that the evidence of even a single witness, if cogent and specific, may suffice to frame charges. Section 245 Cr.P.C.,1973, requires consideration of evidence recorded, but it does not mandate that all witnesses must necessarily be examined before a discharge petition can be decided. The test is whether there exists a prima facie case for trial. In the present case, PW1, the de facto complainant, has specifically attributed overt acts to the petitioners. The trial court has extracted such portions and found that a prima facie case is made out. The contention that PW1's evidence suffers from contradictions with the FIR is a matter for trial and cannot be assessed at the discharge stage. The petitioners' reliance on sanction under Section 197 Cr.P.C.,1973, is also misplaced, in view

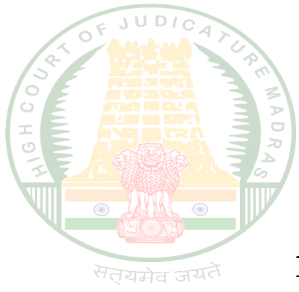


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of the settled legal position that no such sanction is required for police officers below the rank of Deputy Superintendent. This Court has dealt with a similar issue in CrI.O.P.(MD) Nos.12975 to 12977, 17390 and 21859 of 2018 and 18808 of 2019 and the operative portion of the same is extracted as follows:

“36. In view of the consistent decisions rendered by the Full Bench and Constitution Benches of the Apex Court time and again, which still holds water, we find that the police officer from the rank of Constable to Inspector of Police are not entitled to protection under Section 197 Cr.P.C. and the plea of the accused to interpret the word 'removable by Government' employed in the said provision in broad perspective by re-evaluating the law laid down by this Court in 1979 (1) MLJ (CrI.) 705 & CDJ 2017 MHC 6889 cannot be entertained.”

9. On a careful consideration of the materials, this Court is of the view that the impugned order of the trial court does not warrant interference. The trial court has correctly held that the petitioners' defence can be raised during the course of trial and that there exists sufficient material to proceed further.



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10. Accordingly, this Criminal Revision Case stands dismissed. No costs.

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

To

- 1.The Judicial Magistrate No.VI,
Thiruchirapalli.
- 2.The Inspector of Police,
CBCID Police,
Thiruchirapalli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High
Court, Madurai.



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L.VICTORIA GOWRI, J.,

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