



CrL.R.C.(MD)Nos.693 and 710 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrL.R.C.(MD)Nos.693 and 710 of 2023
and
CrL.M.P.(MD)No.9703 of 2023

Sethumathavan

... Petitioner in both cases

-VS-

1.The Sub Inspector of Police,
Thirugokarnam Police Station,
Pudukkottai District.

2.A.K.Raman

3.Amalraj

4.Ganesan

5.Sathyamoorthy ... Respondents in CrL.R.C.(MD)No.693 of 2023

1.State rep. By its,
Inspector of Police,
Thirugokarnam P.S.,
Cr.No.494 of 2007.

2.A.K.Raman

3.Amulraj

4.Sathiyamoorthy

5.Ganesan ... Respondents in CrL.R.C.(MD)No.710 of 2023



CrL.R.C.(MD)Nos.693 and 710 of 2023

PRAYER in CRL RC(MD) No.693 of 2023 : Criminal Revision Case filed under 397 and 401 of Cr.P.C., to call for the records from the lower court and to set aside the order dated 28.06.2023 in Cr.M.P.No.2925 of 2023 in C.C.No.38 of 2023 on the file of the learned Judicial Magistrate Court No.I, Pudukkottai.

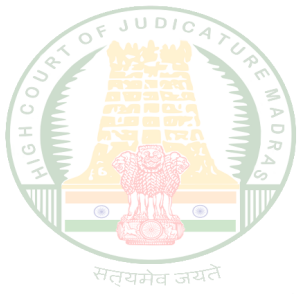
PRAYER in CRL RC(MD) No.710 of 2023 : Criminal Revision Case filed under 397 and 401 of Cr.P.C., to call for the records from the lower court and to set aside the order dated 07.11.2022 in Unnumbered Cr.M.P. Of 2022 in C.C.No. 62 of 2018 filed under Section 173(8) of Cr.P.C., on the file of the learned Judicial Magistrate No.II, Pudukkottai.

For Petitioner	: Mr.Ananda Padmabhan
(in both cases)	For Mr.G.Madhavan
For 1 st Respondent	: Mr.M.Sakthi Kumar,
(in both cases)	Government Advocate (Crl.)
For Respondents 2 to 5	: Mr.Jeya Mohan
(in both cases)	For Mr.M.Rajarajan

COMMON ORDER

This Criminal Revision Case is filed, challenging the common orders passed by the learned Judicial Magistrate Court No.I, Pudukkottai, in CrL.M.P.No.2925 of 2023 in C.C.No.38 of 2023 dated 28.06.2023 and in an earlier unnumbered CrL.M.P. of 2022 in C.C.No.62 of 2018 dated 07.11.2022 respectively.

2.For the sake of convenience, the parties are referred to as per their ranks before the learned Trial Court.



Factual Matrix:-

3.The petitioner herein is the defacto complainant, who examined himself as P.W.1 before the learned Trial Court. The defacto complainant filed a petition under Section 319 of Code of Criminal Procedure to array one Subramaniam and one Ganesh as Accused Nos.5 and 6 in C.C.No.38 of 2023.

4.The crux of the allegations made by the defacto complainant is as follows:-

While he was engaged in the granite business and facing financial constraints, the first accused approached him and offered a loan of Rs.50 lakhs at 6% per annum. Believing his representations, the complainant borrowed the said sum. The first accused obtained blank signed documents including stamp papers, promissory notes, and cheques for security. Later, the first accused demanded valuable title deeds in addition. On 01.08.2007, the complainant came to know that a portion of his property situated at Ezhil Nagar, Pudukkottai (Town Survey No.6087, measuring 9,974 sq. ft. Out of 12075 sq.ft.) was sold to the first accused by the second accused, who falsely claimed to be his general power of attorney holder. The complainant had not executed any such document. Upon enquiry, he discovered that the first accused had fabricated the power of attorney and had fraudulently registered a sale deed. When questioned, the



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accused demanded 120% monthly interest and refused to return the original documents. Consequently, the complainant lodged a complaint on 30.12.2007, which was registered as Crime No. 494 of 2007 under Sections 463, 464, 465, 467, 468, 471, 474, 420, and 120(b) of IPC, and Section 4 of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act. Despite the complaint, no action was taken to add the necessary accused persons. Hence, the petitioner filed a petition under Section 173(8) of Cr.P.C., seeking further investigation. The same was dismissed in an Unnumbered M.P.No. Of 2022.

5. Thereafter, the petitioner filed a petition in Cr.M.P.No.2925 of 2023 under Section 319 of Cr.P.C., before the learned Judicial Magistrate No.I, Pudukottai. The learned Trial Court has stated that the charge sheet was filed in 2013. Charges were framed on 04.01.2017. Trial commenced and 20 prosecution witnesses were examined. The case was posted for defence evidence after closure of prosecution and questioning under Section 313 of Cr.P.C. The case has undergone multiple transfers. Initially C.C.No.264 of 2013 before the learned Judicial Magistrate No.I, Pudukkottai, transferred to the learned Judicial Magistrate No.II, Pudukkottai and then to the learned Judicial Magistrate, Thirumayam (C.C.No.3 of 2023). Finally, the case transferred by this Court to the learned Judicial Magistrate No.I, Pudukkottai, as C.C.No.38 of 2023. This Court, in CrI.O.P.(MD)No.453 of 2023, directed the trial to be completed within two months from



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28.02.2023. Despite knowing the identity of P.W.6 and P.W.8, who were examined on 08.03.2019 and 17.08.2021 respectively, the defacto complainant failed to take steps earlier to implead them. The petition is belated and not maintainable at this stage when the trial is in the final phase after ten years. The said petition was also dismissed by order dated 28.06.2023. Crl.R.C.(MD)Nos.693 and 710 of 2023 have been filed challenging the above dismissal orders.

Submissions:-

6.The learned counsel appearing for the petitioner submitted that the impugned orders are perverse, erroneous, and against the weight of evidence. The learned Trial Court failed to consider the necessity of further investigation and impleadment of accused. The petitioner has continuously pursued the matter by filing appropriate petitions including for recovery of certain original documents (CD and document dated 21.08.2016) linked to the accused. Reliance was placed on the decision of the Hon'ble Supreme Court in the case of ***Hasanbhai Valibhai Qureshi vs State of Gujarat and others***¹, to argue that the mere fact that there may be further delay in concluding the trial should not stand on the way of further investigation if that would help the Court in arriving at the truth and do real and substantial as well as effective justice.

¹ 2004 Supreme Court (SC) 429



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7. Further reliance was placed on the decision of the Hon'ble Supreme Court in the case of **Sonalal Soni vs State of Chattisgarh and others²** and insisted that if the defacto complainant is not satisfied with the final result of investigation, then he will not be precluded for moving an application for further investigation. It was argued that the High Court's direction to complete the trial within two months does not act as an embargo to invoke legal powers if justice requires.

8. The learned counsel appearing for the respondents 2 to 5 submitted that the case has been pending since 2007 and has undergone multiple transfers and delays. 18 witnesses have been examined and 313 of Cr.P.C., questioning completed. The defacto complainant has been assisting the prosecution through a private counsel. Petitions under Sections 173(8) and 319 of Cr.P.C., are filed only to delay the proceedings and harass the accused. The application to add P.W.6 and P.W.8 as accused at this belated stage is unwarranted. He placed reliance on the decision of the Hon'ble Supreme Court in **Rampal Gautam & others vs State by Mahadevapura Police Station, Mahadevapura, Bengaluru & another³**, dated 28.01.2025, to argue that the defacto complainant having testified at the pending trial as against P.W.6 and P.W.8, now requiring to add them as accused absolutely on vague allegations levelled against them

² 2005 Supreme (Chhattisgarh) 115

³ SLP (Criminal) No.7968 of 2016



is grossly erred and unsustainable.

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9.Further reliance was placed on the decision of the Hon'ble Supreme Court in ***Hardeep Singh vs State of Punjab and others***⁴, to contend that power under Section 319 of Cr.P.C., is a discretionary and an extraordinary power, which could be exercised only sparingly and only in those cases where the circumstances so warrant. He made it a point that only where strong and cogent evidence occurs against a person from the evidence led before the Court, such powers should be exercised and not in a casual and cavalier manner.

Discussion and Conclusion:-

10.This Court is conscious of the settled position that powers under Section 319 of Cr.P.C., are extraordinary and must be exercised sparingly and judiciously. Though the Hon'ble Supreme Court has held that such power may be exercised at any stage before the pronouncement of judgment, it is equally settled that such exercise must be supported by cogent and strong material indicating involvement of the proposed accused in the commission of the offence.

11.In the present case, the proposed accused (P.W.6 and P.W.8) were already examined years ago as prosecution witnesses. The complainant

⁴ (2014) 3 Supreme Court Cases 92



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had ample opportunity during the trial to move appropriate petitions but failed to do so until the defence stage. The trial has already seen delays due to multiple transfers and is currently at the stage of defence evidence. No fresh or additional material is produced to warrant invoking Section 319 of Cr.P.C., at this stage. The learned Trial Court rightly refused to invoke the power under Section 319 of Cr.P.C., negating the defacto complainant's claim for a fishing enquiry. In the given circumstances of this case, the learned Trial Court rightly dismissed the applications holding that there is no scope for the Court acting under Section 319 of Cr.P.C., to form any opinion as to the guilt of P.W.6 and P.W.8. Therefore, the learned Trial Court has rightly dismissed the petitions under Sections 173(8) and 319 of Cr.P.C.

12. Accordingly, both the Criminal Revision Cases are dismissed as devoid of merit. The learned Trial Court is directed to proceed with the matter and conclude the trial as expeditiously as possible, preferably within two months from the date of receipt of a copy of this order, in line with the directions issued by this Court in CrL.O.P.(MD)No.453 of 2023. No Costs. Consequently, connected miscellaneous petition is closed.

28.07.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes
Mrn



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To

- 1.The Principal District and Sessions Judge, Pudukkottai.
- 2.The Judicial Magistrate No.II, Pudukkottai.
- 3.The Inspector of Police,
Thirugokarnam Police Station,
Pudukkottai District.
- 4.The Sub Inspector of Police,
Thirugokarnam Police Station,
Pudukkottai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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