

Crl.O.P.(MD) No.15491 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	10.10.2025
Pronounced on	15.10.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.15491 of 2025

and

Crl.M.P.(MD) Nos.12613 & 12614 of 2025

R.Kartheeswari

... Petitioner

Vs.

The State of Tamilnadu rep. by
The Inspector of Police,
Virudhunagar Bazar Police Station,
Virudhunagar District.
(Crime No.66 of 2022)

... Respondent

Prayer : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the charge sheet in S.C.No.164 of 2024 on the file of the learned Additional District Judge, Virudhunagar in connection with Crime No.66 of 2022 on the file of the respondent police and quash the same

For Petitioner : Mr.J.Nanthakumar

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed seeking to quash the final report in S.C.No.164 of 2024 on the file of the learned Additional District Judge, Virudhunagar, filed against the petitioner for the offences punishable under Section 328 of the Indian Penal Code, 1860, and Sections 6(b) and 24(1) of the Cigarettes and Other Tobacco Products Act, 2003.

2. The allegation in the final report is that on 15.06.2022, at about 01:00 p.m., when the Sub-Inspector of Police attached to Virudhunagar Bazaar Police Station went for inspection of the petitioner's shop, the petitioner was found in possession of 240 packets of Ganesh 701 and 120 packets of Vimal Pan Masala tobacco products kept for sale, and thus committed the aforesaid offence.

3. The learned counsel for the petitioner would submit that the impugned prosecution is *mala fide*; that no independent witnesses were examined; that the Sub-Inspector of Police, who is the complainant, had also conducted the investigation; that the final report was filed by the

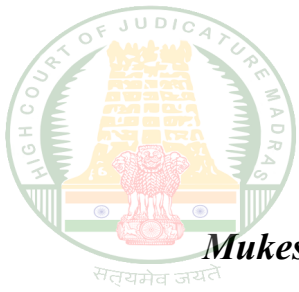


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Inspector of Police, who had merely lent her name; that the investigation is biased; and that the chance of conviction is bleak, and sought for quashing the impugned final report. He would also rely upon the judgment of this Court in ***Grace Banu vs. State rep. by the Inspector of Police, J-3 Guindy Police Station, Guindy, Chennai***, dated 01.03.2021, rendered in Crl.O.P. No.20795 of 2020.

4. The learned Additional Public Prosecutor for the respondent, per contra, would submit that the investigation conducted by the complainant would not be vitiated unless bias or prejudice is shown, and that whether such bias or prejudice exists depends on the facts and circumstances of each case. He would rely upon the judgment of the Hon'ble Supreme Court in ***Mukesh Singh vs. State (Narcotic Branch of Delhi)***, reported in (2020) 10 SCC 120.

5. Admittedly, the statements of all the witnesses cited in the final report have been recorded by the Sub-Inspector of Police, on whose complaint the FIR was registered. There are no other independent witnesses examined by the prosecution. This Court, in ***Grace Banu***, cited *supra*, after referring to the judgment of the Hon'ble Supreme Court in



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Mukesh Singh, cited by the learned Additional Public Prosecutor for the

respondent, has held as under:

*“7.This Court finds force in the submission made by the learned counsel for the petitioner on the ground that the entire investigation is vitiated in view of the informant and the investigator being the same officer. There were conflicting judgments on this issue and ultimately, the law was settled by the Hon'ble Supreme Court of India in the case of **Mukesh Singh vs. State (Narcotic Branch of Delhi)** reported in **2020 (3) MWN (Cr) 40 (SC)**. The relevant portions in the judgment is extracted hereunder:*

12. From the above discussion and for the reasons stated above, we conclude and answer the reference as under:

*I. That the observations of this Court in the cases of **Bhagwan Singh v. State of Rajasthan** (1976) 1 SCC 15; **Megha Singh v. State of Haryana** (1996) 11 SCC 709; and **State by Inspector of Police, NIB, Tamil Nadu v. Rajangam** (2010) 15 SCC 369 and the acquittal of the accused by this Court on the ground that as the informant and the investigator was the same, it has vitiated the trial and the accused is entitled to acquittal are to be treated to be confined to their own facts. It cannot be said that in the aforesaid decisions, this Court laid down any general proposition of law that in each and every case where the informant is the investigator there is a bias caused to the accused and the entire prosecution case is to be disbelieved and the accused is entitled to acquittal;*

II. In a case where the informant himself is the investigator, by that itself cannot be said that the



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investigation is vitiated on the ground of bias or the like factor. The question of bias or prejudice would depend upon the facts and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the investigation would not suffer the vice of unfairness or bias and therefore on the sole ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case to case basis. A contrary decision of this Court in the case of Mohan Lal v. State of Punjab (2018) 17 SCC 627 and any other decision taking a contrary view that the informant cannot be the investigator and in such a case the accused is entitled to acquittal are not good law and they are specifically overruled.

8.It is clear from the above judgment that the mere fact that the informant and the investigator is the same officer cannot by itself vitiate the investigation and would suffer unfairness and the same has to be decided on a case to case basis.”

6. From the Judgment of the Hon'ble Supreme Court referred by this Court in the case extracted above, it is clear that if the investigation suffers from the vice of unfairness and bias, the final report can be quashed. In this case, the witnesses are all police officers belonging to the same police station. Their statements were recorded by the Sub-Inspector of Police. No other independent witnesses were examined. The Sub-Inspector of Police, who had made the complaint, had conducted the substantial part of the investigation. The Inspector of Police only filed the



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final report before the concerned Court. This Court is therefore of the view that the impugned prosecution is vitiated due to unfairness and bias.

Therefore, this Court is inclined to quash the impugned proceedings and accordingly quashes the same.

7. In the result, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

15.10.2025

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non Speaking Order

Copy To:

- 1.The Additional District Judge,
Virudhunagar.
- 2.The Inspector of Police,
Virudhunagar Bazar Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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Pre-Delivery Order made
in
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15.10.2025