



Crl.M.P(MD)No.11811 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.02.2025

Delivered on : 19.03.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.M.P(MD)No.11811 of 2024

in

Crl.R.C.(MD)No.932 of 2024

A.Mohammed Meera

: Petitioner

Vs.

1.M.Jafar Ibrahim

2.The Deputy Superintendent of Police,  
Crime Branch CBCID.,  
Trichy Range, CBCID Office,  
Trichy.

3.The State of Tamil Nadu  
rep.by the Inspector of Police,  
Nagudi Police Station,  
Pudukottai District.  
Crime No.606 of 2020.

: Respondents

PRAYER : Criminal Miscellaneous Petition filed under Section 528 of BNSS, to implead the proposed party/3<sup>rd</sup> respondent as third respondent in Crl.RC(MD) No.932 of 2024.

For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.B.Thanga Aravindh,  
Government Advocate (Criminal Side)  
for R2 & R3.

: Mr.J.John, for R1.



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## **ORDER**

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This Criminal Miscellaneous Petition has been filed seeking orders to implead the petitioner/proposed party as third respondent in Crl.RC(MD)No.932 of 2024 pending on the file of this Court.

2.The facts not in dispute are that on the basis of the complaint given by the first respondent/revision petitioner, FIR came to be registered in Crime No.606 of 2020 for the offences under Sections 147, 294(b), 448, 447, 380 and 506(i) of IPC on the file of Nagudi Police Station, Pudukottai District and the Inspector of Police, Aranthangi Circle, after conducting investigation, filed the final report as 'mistake of fact'. Meanwhile, the accused 1 and 2 have filed an application for anticipatory bail before the Principal Sessions Court, Pudukottai and the same was ordered on 27.01.2021.

3. The first respondent/complainant has filed a petition before this Court in Crl.OP(MD)No.1979 of 2021 to cancel the anticipatory bail granted by the Principal Sessions Court for the accused. Considering the submission made by the prosecution that final report has already been filed as 'mistake of fact' and RCS notice was also served on the complainant and that since the same was denied by the complainant, this Court directed the Investigating Officer to give the copy of the RCS notice along with the final report to the complainant. Since the same was not complied with, the complainant filed a contempt petition in Cont.P(MD)No.1610 of 2021 and this Court



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after coming to know that the police has given false information, considering the  
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submission made by the prosecution, transferred the investigation and directed the  
Nagudi Police to hand over the case to CBCID for fresh investigation and in  
pursuance of the said directions, FIR came to be registered in Crime No.2 of 2022 on  
the file of the Pudukottai CBCID on 09.12.2022.

4.The second respondent police, after completing the investigation filed a  
charge sheet against the three accused including the petitioner herein and the case  
was taken on file in P.R.C.No.4 of 2024 on 24.01.2024 on the Court of the Judicial  
Magistrate No.II, Pudukottai. Thereafter, the complainant filed a petition under  
Section 173(8) of Cr.P.C., in Crl.M.P.No.511 of 2024, seeking further investigation. The  
learned Magistrate, after conducting enquiry has passed the impugned order, dated  
13.08.2024 dismissing the petition. Challenging the dismissal order, the complainant  
has preferred the present revision in Crl.RC(MD)No.932 of 2024. Pending revision,  
the first accused has filed the above application to implead himself as third  
respondent in the criminal revision.

5.The case of the petitioner is that he is a power agent of original owner of the  
subject property; that sufficient evidence and materials are available to prove that the  
subject house does not belong to the revision petitioner, but he has created fraudulent  
settlement deed as if his mother executed in his favour; that the property was not at



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all standing in the name of the revision petitioner's mother at the time of alleged settlement deed; that the third respondent has also closed the case as 'mistake of fact', but the first respondent has given a story based on the photos of scene of occurrence in contempt proceedings and got favourable direction and influenced the second respondent to file a charge sheet; that the revision petitioner has been attempting to mislead the Court in the revision and as such, the petitioner is a necessary party and also an affected person in the above case and that if the petition is not allowed, the petitioner will be put to irreparable loss and hardship.

6. The first respondent/revision petitioner has filed a counter affidavit disputing the petitioner's averments; that even after transfer of investigation, the first respondent has taken more efforts to save the accused and prepared self made false statement in the name of witnesses; that the impleading petition filed by the accused is nothing, but abuse of process of law to delay the case and he has acted as tool of the third respondent; that the first respondent has received the phone call and whatsapp video call from the eye witnesses and the same was placed before the Court in the contempt proceedings; that the investigating officer has not denied the cell phone video recording and pen drive; that the investigating officer deliberately omitted to test the geniuses of the video call records and eye witnesses' phone call; that the petitioner has filed the above application for further investigation to prove



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the involvement of the accused persons including the first accused; that he is the author of the crime and he has recorded the occurrence in the cell phone at the place of occurrence, but the investigating officer has failed to recover the cell phone from the first accused; that the above aspects would go to show that there was no fair investigation and that therefore, impleading petition is liable to be dismissed.

7. No doubt, as rightly contended by the learned counsel for the first respondent, he filed the petition for further investigation against the respondent police and the learned Magistrate has dismissed the said petition. The first respondent has preferred the revision against the police officials.

8. But the main contention of the petitioner is that he has been shown as the first accused in the above case; that the first respondent alone has created such fraudulent settlement deed as if his mother executed in his favour, but it was shown that the revision petitioner's mother was not owning the property at that time; that the petitioner was not heard in the contempt proceedings and the first respondent got favourable orders and on that basis, investigation was transferred to the second respondent and that therefore, he has to be impleaded as respondent in the revision so as to enable him to put forth his case.

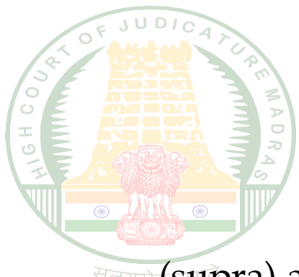
9. The learned counsel for the first respondent would rely on the decision of the Hon'ble Supreme Court in the case of Sathishkumar Nyalchand Shah Vs. State of



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Gujarat<sup>®</sup> and others reported in (2020)4 SCC 22 and it is necessary to refer the  
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following passages :

“10.Having heard learned counsel appearing on behalf of the respective parties and the private respondent herein, we are of the opinion that as such no error has been committed by the High Court dismissing the application submitted by the appellant herein to implead him in the Special Criminal Application filed by the private respondent herein challenging the order passed by the learned Chief Judicial Magistrate rejecting his application for further investigation under Section 173(8) CrPC with respect to one another accused namely Shri Bhaumik against whom no charge-sheet has been filed till date. Therefore, it is not at all appreciable how the appellant against whom no relief is sought for further investigation has any locus and/or any say in the application for further investigation under Section 173(8) CrPC. How he can be said to be a necessary and a proper party. It is required to be noted that, as such, even the proposed accused Shri Bhaumik shall not have any say at this stage in an application under Section 173(8) CrPC for further investigation, as observed by this Court in the case of W.N. Chadha (supra); Narender G. Goel (supra) and Dinubhai Baghabhai Solanki (supra). In the case of Dinubhai Baghabhai Solanki



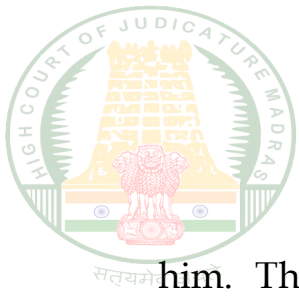
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(supra) after considering one another decision of this Court in the case of Sri Bhagwan Samardha v. State of A.P., it is observed and held that there is nothing in Section 173(8) CrPC to suggest that the court is obliged to hear the accused before any direction for further investigation is made. In Sri Bhagwan Samardha (supra), this Court in paragraph 11 held as under:

“11. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As the law does not require it, we would not burden the Magistrate with such an obligation.”

11. Therefore, when the proposed accused against whom the further investigation is sought, namely Shri Bhaumik is not required to be heard at this stage, there is no question of hearing the appellant-one of the co-accused against whom the charge-sheet is already filed and the trial against whom is in progress and no relief of further investigation is sought against



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him. Therefore, the High Court is absolutely justified in rejecting the application submitted by the appellant to implead him as a party respondent in the Special Criminal Application.”

10.The above decision is squarely applicable to the case on hand. Here also, the petitioner is the first accused and charge sheet has already been filed against him and the case is now pending before the Sessions Court after committal and admittedly, no relief of further investigation is sought against him.

11.The learned counsel for the petitioner would rely on the recent decision of Hon'ble Supreme Court in the case of Santhakumari and others Vs. State of Tamil Nadu and another passed in SLP (Crl.) No.4230 of 2023, dated 12.05.2023, wherein the petition under Section 156(3) of Cr.P.C., was ordered to be dismissed by the learned Magistrate and the revision challenging the dismissal order filed before the High Court came to be allowed with a direction to the respondent police therein to register FIR; that when the same was challenged before the Hon'ble Apex Court alleging that no opportunity of hearing was given to the proposed accused, the Hon'ble Apex Court by referring to its earlier decisions in Manaharbhai Muljibhai Kapadia and another Vs. Shaileshbhai Mohanbhai Patel and others reported in (2012) 10 SC 517 and Bal Manohar Jalan Vs. Sunil Paswan reported in 2014 (9) SCC 640, allowed the appeal and remitted the matter back to the High Court to decide the



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revision afresh in accordance with law.

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12.As rightly contented by the learned counsel for the first respondent, in Sathishkumar Nyalchand Shah's case, similar to the case on hand, the revision was filed challenging the dismissal of the petition filed under Section 173(8) of Cr.P.C., for further investigation and the accused against whom charge sheet was also filed, has moved an application to implead him as one of the respondent in the revision and the revision was dismissed and that when the same was challenged, the Hon'ble Supreme Court has confirmed the order of High Court, dismissing the impleadment petition.

13. As already pointed out, the petitioner is the first accused against whom charge sheet was already filed and as such, he has no locus standi to question the plea for further investigation. Hence, this Court concludes that the above petition is absolutely devoid of merits and the same is liable to be dismissed.

14. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-  
19/03/2025

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/04/2025  
Sub-Assistant Registrar  
( C.S. I / II / III / IV )  
Madurai Bench of Madras High Court,  
Madurai - 625 023.



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TO

1 THE PRINCIPAL DISTRICT JUDGE,  
PUDUKKOTTAI.

2 THE JUDICIAL MAGISTRATE NO.II (FAC),  
PUDUKKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
PUDUKKOTTAI DISTRICT.

4 THE DEPUTY SUPERINTENDENT OF POLICE,  
CRIME BRANCH CB CID, TRICHY RANGE, CB CID OFFICE,  
TRICHY DISTRICT.

5 THE INSPECTOR OF POLICE,  
NAGUDI POLICE STATION, PUDUKKOTTAI DISTRICT.

6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.SARAVANA KUMAR, Advocate ( SR-3093[I] dated 19/03/2025 )

ORDER IN

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in Crl.R.C.(MD)No.932 of 2024

Date :19/03/2025

SA/SAR. /21.04.2025/10P/8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.