

Crl.R.C.(MD)No.1041 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.1041 of 2024

Kanaka

... Petitioner

Vs.

1.The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.

2.Sadagopan

3.Arunkumar

4.Muthukumar

5.Ramachandran

... Respondents

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records connected with the order in M.P.No.3 of 2024 in C.C.No.58 of 2021, dated 23.09.2024 passed by the District Munsif cum Judicial Magistrate Court, Ilayangudi and set aside the same and consequently, pass an order directing the respondent police to conduct further investigation in the case in Crime No.431 of 2021 in accordance with law within the time stipulated by this Court.



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For Petitioner : Mr.S.Malaikani

For Respondents : Mrs.M.Aasha,
Government Advocate (Crl. Side) for R1.

: Mr.M.S.Jeyakarthick, for R2 to R5.

ORDER

The Criminal Revision is directed against the order passed in M.P. No.3 of 2024 in C.C.No.58 of 2021, dated 23.09.204 on the file of the District Munsif cum Judicial Magistrate Court, Ilayangudi, dismissing the petition filed under Section 193(9) of BNSS, seeking further investigation.

2. It is evident from the records that on the basis of the complaint lodged by the petitioner, FIR came to be registered in Crime No.431 of 2021 on 16.10.2021 for the alleged offences under Sections 448, 294(b), 427, 323, 506(ii) IPC and Section 4 of TNPHW Act against four persons and after investigation, final report came to be filed for the very same offences against the accused and the case was taken on file in C.C.No.58 of 2021; that when the trial was in part heard stage, the defacto complainant has filed the above petition seeking further investigation alleging that though she has stated about the availability of the video records to show the occurrence, the



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investigating officer has not whispered anything in the charge sheet; that the Medical Officer, who attended and treated the petitioner, has not been examined; that though the petitioner has alleged that the accused caused damages to the articles to the tune of Rs.495/-, the investigating officer has not added the offence under Section 3 of TNPPDL Act; that the investigating officer has also not chosen to recover the damaged articles nor produced the iron rod before the concerned Court and that since the investigating officer has not conducted the investigation properly, the petitioner was constrained to file the above application seeking further investigation.

3. The respondents/accused have filed a counter statement raising objections and further stated that though this Court has directed the trial Court to dispose of the case within a period of six months, the above petition has been filed only to protract the proceedings.

4. It is not in dispute that in the order passed in Crl.O.P(MD)No.2426 of 2024, dated 04.06.2024, this Court directed the learned Judicial Magistrate, Ilayangudi to complete the trial and dispose of the case in C.C.No.58 of 2021 within a period of six months.



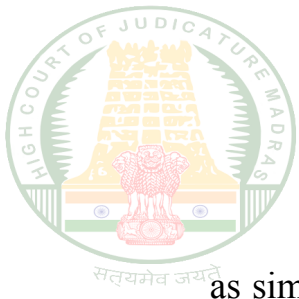
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5. As rightly observed by the learned Judicial Magistrate, in the charge sheet there is no deletion of the accused and provisions of law shown in the FIR. It is pertinent to note that the learned Magistrate has framed charges for the offences under Sections 294(b), 427, 323, 448, 506(ii) of IPC and Section 4 of TNPHW Act.

6. It is evident from the records that summons to the petitioner and other witnesses L.W.1, L.W.2 and L.W.4 came to be returned as refused and hence, the witness warrants were issued against the said witnesses and that the said witnesses including the petitioner had appeared before the concerned Court and at their instance, witness warrants came to be recalled. It is not in dispute that the prosecution side evidence was already over and the case stands posted for further arguments, if any.

7.As rightly observed by the learned Magistrate, the petitioner has not stated about the availability of the video footage either in her complaint or in the statement recorded under Section 161(3) of Cr.P.C and as per Medical Records, the petitioner has suffered by abrasions and the same was certified



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as simple injury. According to the prosecution, the eatables (such as mixture pocket, sevu pocket, murukku and others) were allegedly smashed in the occurrence and the same were not in a position to recover and produce before the concerned Court.

8.No doubt, the prosecution has not produced the iron rod alleged to have been used by the accused. But as rightly observed by the learned Magistrate, non recovery of weapon used for the offence by itself is not fatal to the prosecution. Moreover, the learned Magistrate, after perusing the video disk has specifically observed that there are no materials to frame charge for the offence under Section 3 of TNPPDL Act and Section 307 of IPC.

9.Considering the above, the impugned order dismissing the petition filed under Section 193(9) of BNSS cannot be found fault with. As rightly observed by the learned Magistrate, despite directions of this Court to dispose of the case within a period of six months, the above petition came to be filed only to drag on the proceedings. Hence, this Court concludes that the revision is absolutely devoid of merits and the same is liable to be dismissed.



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10. In the result, the Criminal Revision Case is dismissed.

17.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
das

To

- 1.The District Munsif cum Judicial Magistrate,
Ilayangudi.
- 2.The Inspector of Police,
Ilayangudi Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Order made in
Crl.R.C.(MD)No.1041 of 2024

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