



Crl.OP(MD)No.21593 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.21593 of 2025

Latha

... Petitioner / Defacto
Complainant

Vs.

1. The State of Tamil Nadu,
Rep. by The Superintendent of Police,
Kanyakumari District.
2. The Deputy Superintendent of Police,
Thuckalay Sub Division,
Kanyakumari District.
3. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.
Crime No.58 of 2023.
4. The Inspector of Police,
CBCID Wing,
Kanyakumari District.

... Respondents / Complainants

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to transfer the investigation in Crime no.58 of 2023 from the file of the 3rd respondent to the file of the 4th Respondent and consequently direct the 4th respondent to conduct proper



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investigation in an expeditious manner and to file the final report within the stipulated period as prescribed by this Court.

For Petitioner : Mr.P.M.Vishnuvarthan,
For Mr.S.Jebastin

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

ORDER

Preface:

This Criminal Original Petition has been filed invoking the jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking transfer of investigation in Crime No.58 of 2023 from the file of the third respondent Police to the file of the fourth respondent, on the ground that the investigation conducted so far is unfair, biased, and tainted by alleged collusion with the real accused, resulting in grave prejudice to the petitioner, who is a victim of an acid attack.



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Case of the prosecution:

2. The case of the petitioner, in brief, is that she is a widow residing within the jurisdiction of the third respondent Police Station. Her husband deserted her nearly 28 years ago after the birth of a male child. Despite severe personal and economic hardship, the petitioner single-handedly raised her son, provided him with education, and enabled him to secure employment in the Indian Army.

3. The petitioner eked out her livelihood by working as a daily wage labourer in a cashew nut factory and subsequently availed a housing loan from the State Bank of India, constructed a residential house for her son, and ensured prompt repayment of the loan instalments. Thereafter, with the intention of sustaining herself, the petitioner established a flour mill at Chithirancode in Kanyakumari District.

4. It is the specific case of the petitioner that a neighbouring shop owner, namely Muthukutty, aged about 60 years, repeatedly subjected her to sexual harassment, taking advantage of her status



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as a widow. When the harassment became unbearable, the petitioner informed one of her relatives, who is also serving in the Indian Army. Upon intervention and warning issued to the said Muthukutty, he lodged a false complaint against the petitioner and her relative before the Kotticode Police Station in February 2023, which, after enquiry, was closed.

5. According to the petitioner, the harassment did not cease. On 30.03.2023, when the petitioner was alone in her flour mill, the said Muthukutty trespassed into the premises and attempted to molest her, and upon resistance, threatened her with dire consequences.

6. On the very same night, at about 8.00 p.m., after closing her shop, the petitioner boarded a Government bus from Chithirancode and alighted at Madathoorkonam Junction. While she was walking towards her residence, two unknown persons followed her on a two-wheeler and poured acid on her body, causing grievous burn injuries on her right arm, chest, thigh and other parts of the body.



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7. On hearing her cries, neighbours rushed to the spot, rescued her, and admitted her to Jaya Hospital, Kulasekaram, where she underwent treatment till 06.04.2023, incurring medical expenses exceeding Rupees One Lakh. During her hospitalisation, the petitioner informed the third respondent Police about her prior enmity with the said Muthukutty.

8. The petitioner alleges that though Muthukutty was initially arrested, he was later shielded by the third respondent Police, who falsely implicated Justin Kiruba Dhas, the petitioner's brother-in-law, who had supported her throughout her life. It is further alleged that defamatory news items were published portraying the petitioner as having orchestrated the attack for personal gain.

9. Aggrieved thereby, the petitioner approached this Court earlier in Crl.O.P.(MD) No.12186 of 2023, seeking proper investigation by a woman police officer. By order dated 06.07.2023, this Court directed that the remaining investigation be conducted by a woman police officer and that the investigation be expedited.



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10. Pursuant to the said order, the investigation was transferred to Thiruvattar Police Station, where a woman Station House Officer conducted enquiry, recorded statements, and visited the shop of the said Muthukutty. During this stage, Muthukutty lodged a fresh complaint after a delay of nearly 15 months before the District Crime Branch, alleging loan transactions against the petitioner, which, according to the petitioner, was a retaliatory and false complaint.

11. It is further stated that the learned Judicial Magistrate, Padmanabhapuram, recorded statements of witnesses in Crl.M.P. No.169 of 2025 on 19.02.2025, wherein the petitioner and other witnesses pointed towards Muthukutty as the prime accused. However, no action has been taken against him till date. The petitioner also complains of non-disbursement of victim compensation under the acid attack victim scheme. Hence, alleging bias, collusion, threat, and failure to conduct a fair investigation, the petitioner seeks transfer of investigation to the fourth respondent.



Grounds for transfer:

12. The petitioner has urged, *inter alia*, the following grounds:

(i) that the investigation by the third respondent lacks fairness and diligence; (ii) that there is collusion between the investigating agency and the real accused; (iii) that delay and inaction have resulted in apprehension of evidence tampering; (iv) that the petitioner and her family are being threatened and harassed; (v) that only a transfer of investigation would secure a fair, impartial, and effective probe.

Submissions:

13. The learned counsel for the petitioner contended that an acid attack is one of the gravest offences against a woman, striking at her dignity and right to life. Despite earlier directions of this Court, the investigation has not inspired confidence. The filing of a final report without arraigning the person consistently named by the victim and witnesses is itself indicative of unfair investigation.

14. Per contra, the learned Government Advocate (Criminal Side) submitted that the investigation has already been completed; that four accused were identified based on CCTV footage; that two



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accused were specifically identified as perpetrators; and that the final report has been filed on 20.05.2025 before the learned Judicial Magistrate No.II, Padmanabhapuram by way of e-filing in No.LTN20220002356C202500233 though the same is yet to be taken on file. It was therefore contended that no purpose would be served in transferring the investigation at this stage.

15. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

16. Whether, in the facts and circumstances of the case, this Court is required to order transfer of investigation in Crime No.58 of 2023 from the third respondent to the fourth respondent?

Analysis:

17. An acid attack is not merely an offence against the body of a woman, but an assault on her dignity, autonomy, and fundamental right to live with dignity guaranteed under Article 21 of the



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Constitution of India. Investigation into such an offence must therefore be scrupulously fair, transparent, and victim-centric.

18. Though it is contended by the respondents that a final report has been filed, the material placed before this Court discloses that: (i) the petitioner has consistently named a specific individual as the person behind the crime; (ii) statements of witnesses recorded before the learned Judicial Magistrate also point towards the said individual; (iii) a counter-complaint was lodged by the said individual after an inordinate delay of nearly 15 months, *prima facie* appearing to be retaliatory; (iv) the petitioner has been repeatedly approaching authorities and this Court due to inaction.

19. The mere filing of a final report cannot be treated as a bar on this Court exercising its constitutional and inherent jurisdiction, especially when the fairness of the investigation itself is under serious cloud. The test is not whether investigation is completed, but whether it is credible and impartial.



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20. This Court is conscious that transfer of investigation is an extraordinary power. However, where circumstances disclose reasonable apprehension that the investigating agency has failed to act independently, and where the victim of a heinous crime has lost faith in the process, the Court cannot remain a silent spectator.

21. The cumulative circumstances, nature of offence, prior animosity, allegations of shielding the real accused, delayed counter-complaints, and prolonged suffering of the victim, convince this Court that allowing the same agency to continue or conclude the process would result in miscarriage of justice.

22. In such circumstances, this Court is duty-bound to ensure that the truth is unearthed through an independent agency so that public confidence in the criminal justice system is preserved.

23. This Court is satisfied that the petitioner has made out a strong and compelling case for transfer of investigation. The interest of justice demands that the investigation be taken out of the hands



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of the present investigating agency and entrusted to a higher and independent authority.

24. Accordingly, this Criminal Original Petition is allowed. The investigation in Crime No.58 of 2023 is hereby withdrawn from the file of the third respondent Police and transferred to the file of the fourth respondent.

25. The fourth respondent is directed to:

- i. conduct a fresh, fair, and impartial investigation, uninfluenced by the earlier investigation;
- ii. examine all witnesses, including the petitioner and those whose statements have already been recorded by the learned Judicial Magistrate;
- iii. consider all materials, including CCTV footage and medical records; proceed strictly in accordance with law.

26. The fourth respondent shall complete the investigation and file a final report before the jurisdictional Magistrate within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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27. The learned Judicial Magistrate shall deal with the final report independently and on its own merits, without being influenced by the earlier report, if any.

28. The respondents are also directed to consider the petitioner's claim for acid attack victim compensation in accordance with the applicable scheme and law, and pass appropriate orders expeditiously.

01.12.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

Sml

To

1. The Superintendent of Police,
Kanyakumari District.
2. The Deputy Superintendent of Police,
Thuckalay Sub Division,
Kanyakumari District.
3. The Inspector of Police,
Kulasekaram Police Station,
Kanyakumari District.
4. The Inspector of Police,
CBCID Wing,
Kanyakumari District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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