



Crl.R.C.(MD)No.1588 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 11.12.2025

CORAM:

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

Crl.R.C.(MD)No.1588 of 2025

and

Crl.M.P.(MD)No.19726 of 2025

Rathika

... Petitioner

Vs

1. State of Tamilnadu Rep by
Inspector of Police,
Tiruchirapalli,
Government Hospital Police Station,
Tiruchirappalli.
(In Cr. No. 174 of 2025).

2. The Deputy Commissioner of Police,
North Zone,
Trichy City.

3. The Commissioner of Police,
Trichy, Trichy City.

... Respondents

Prayer: This Criminal Revision Case filed under Section 438 r/w 442 of BNSS To call for the records relating to the order dated 03.11.2025 made in Crl.M.P. No. 15737 of 2025 on the file of the Judicial Magistrate Court No.IV, Tiruchirappalli in Crime No. 174 of 2025 on the file of the 1st respondent and set aside the same by allowing the revision petition and allow the petition filed by the petitioner.



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For Petitioner : Mr.J. Lawrance,
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

ORDER

The Criminal revision petition is filed challenging the order passed by the Judicial Magistrate No.IV, Tiruchirappalli in Crl.M.P. No. 15737 of 2025.

2.A perusal of the impugned order would show that Judicial Magistrate No.IV, Tiruchirappalli has proceeded on misconception that the request was for change of “investigating agency”. Impugned order suffers from non-application of mind.

3.Learned Additional Public Prosecutor would submit that it may be open to the petitioner to file a petition under Section 175(3) BNSS for further investigation or change of investigation. But it may not be appropriate to name a particular officer, who ought to investigate the offence. He would further submit that if at all the remedy that is available, in case the petitioner finds that the investigation is not proper, she ought to have approached this Court by filing a petition under Section 482 Cr.P.C. He would further submit that the Magistrate may not possess power to transfer the investigation from one police officer to other.



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4.Learned Counsel for the petitioner would respond by relying on the judgment of the Hon'ble Supreme Court in the case of ***Sudhir Bhaskarrao Tambe Vs. Hemant Yashwant Dhage and others*** reported in (2016) 6 SCC 277 wherein it was found that the Magistrate does possess power/authority to direct FIR to be registered or if it has been registered, proper investigation to be done, which *inter alia* includes within its ambit change of the investigation officer.

The relevant portion reads as follows:

“2. This Court has held in Sakiri Vasu v. State of U.P.², that if a person has a grievance that his FIR has not been registered by the police, or having been registered, proper investigation is not being done, then the remedy of the aggrieved person is not to go to the High Court under Article 226 of the Constitution of India, but to approach the Magistrate concerned under Section 156(3) CrPC. If such an application under Section 156(3) CrPC is made and the Magistrate is, prima facie, satisfied, he can direct the FIR to be registered, or if it has already been registered, he can direct proper investigation to be done which includes in his discretion, if he deems it necessary, recommending change of the investigating officer, so that a proper investigation is done in the matter. We have said this in Sakiri Vasu case² because what we have found in this country is that the High Courts have been flooded with writ petitions praying for registration of the first information report or praying for a proper investigation.

3....

4. In view of the settled position in Sakiri Vasu case², the impugned judgment¹ of the High Court cannot be sustained and is hereby set aside. The Magistrate concerned is directed to ensure proper investigation into the alleged offence under Section 156(3) CrPC and if he deems it necessary, he can also recommend to the SSP/SP concerned a change of the investigating officer, so that a proper investigation is done. The Magistrate can also monitor the investigation, though he cannot himself investigate (as investigation is the job of the police). Parties may produce any material they wish before the Magistrate concerned. The learned Magistrate shall be uninfluenced by any observation in the impugned order of the High Court.”



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5.Learned Additional Public Prosecutor would submit that even in terms of the above judgment it may not be open to the petitioner to insist on investigation by a particular officer and Magistrate can recommend to the SSP/SP concerned to change the investigating officer, if circumstances warrant such exercise.

6.As found above, the impugned order suffers from misconception of the prayer, this Court is inclined to remand the matter back to the Judicial Magistrate No.IV, Tiruchirappalli to pass order afresh. Liberty is granted to the petitioner, if so advised, to appropriately modify the petition.

7.With the above directions, this criminal revision case is disposed of. Consequently, connected miscellaneous petition is closed.

11.12.2025

Index :yes/No
Internet:yes/No
LR



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MOHAMMED SHAFFIQ,J.

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