

Crl.O.P(MD) No.9 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M. NIRMAL KUMAR**

Crl.O.P.(MD) No.9 of 2025

and

Crl.M.P(MD) No.19 of 2025

Divin Rahul

...Petitioner

Vs.

1. The Inspector of Police
Valliyur Police Station
Tirunelveli District

2. Velpandi

...Respondent

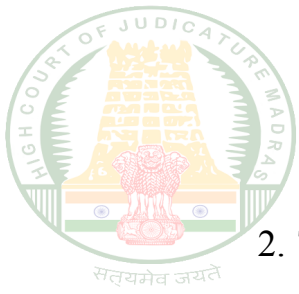
PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records pertaining to the First Information Report in Crime No. 457 of 2024 on the file of the first respondent police and quash the same.

For Petitioner : Mr.R.Balakrishnan

For Respondent : Mr.A. Thiruvadi Kumar
No.1 Additional Public Prosecutor

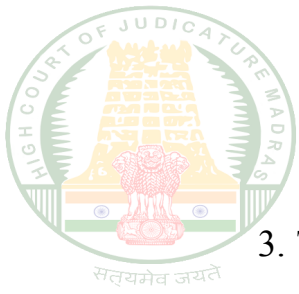
ORDER

This petition has been filed seeking direction to quash the First Information Report in Crime No. 457 of 2024 on the file of the first respondent police.



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2. The contention of the petitioner is that the respondent police have no power to register First Information Report in a non cognizable offence without permission from the Magistrate is bad in law and it is not sustainable. In this case the second accused was arrested on 04.09.2024 and he was produced before the District Munsif cum Judicial Magistrate, Radhapuram at 10.30 pm., at his residence for remand. The learned Magistrate on perusal of the First Information Report finding that it is a non cognizable offence, no First Information Report can be registered condemned the act of the Investigation Officer and released the second accused on own bond. Further he has also sent an intimation to the Assistant Superintendent of Police, Valliyoor and Superintendent of Police, Tirunelveli to take proper action and direct them to to give appropriate direction to the sub ordinate officers how to investigate cases under cognizable and non cognizable offence. Further filing of First Information Report in a non cognizable offence by the investigation officer without approval and sanction from the Magistrate is not proper. He further submitted that now the representation of the learned Additional Public Prosecutor that later during investigation the offences have been altered cannot be countenanced for the simple reason that foundational facts of the case itself is shaky and not sustainable and the police cannot improve the case subsequently.



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3. The learned Additional Public Prosecutor submitted that in this case it is a fact that for a non cognizable offence First Information Report has been registered and the Magistrate has also refused the remand and has also recorded the same in the remand report on 04.09.2024. He further submitted that during investigation the section was altered to cognizable offence and now the investigation is completed and charge sheet has been filed vide e.filing No.CCC202400780 before the concerned Court. In view of the chain circumstances the case cannot be quashed on the ground of technicality and objected the same.

4. It is not is dispute that the case has been registered for a non cognizable offence and that too without the permission and approval from the Magistrate, in such circumstances the registration of the First Information Report is bad in law and thereafter the subsequent act cannot be considered and given approval as though mistake has been committed earlier can be rectified. The foundation facts and initiation of investigation is bad in law not sustainable.

5.This Court has got no hesitation to quash the First Information Report in Crime No. 457 of 2024 on the file of the first respondent police.



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6. In view of the same, the First Information Report in Crime No. 457 of 2024 on the file of the first respondent police is hereby quashed and the consequential charge sheet filed vide e.filing No.CCC 202400780 before the concerned Court is also hereby quashed. It is made clear that in the event the police finding cognizable offence against the petitioner the police can very well register fresh First Information Report and proceed against the accused persons if required.

7. In the result, this Criminal Original Petition stands allowed. Consequently connected miscellaneous petition stands closed.

21.01.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
aav

To

1. The Inspector of Police
Valliyur Police Station
Tirunelveli District
2. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



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M. NIRMAL KUMAR.J.,

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