



CrI.O.P(MD)No.568 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

CrI.O.P(MD)No.568 of 2025
and
CrI.M.P(MD)Nos.368 & 369 of 2025

T.Lawrance

... Petitioner

Vs.

1.The State of Tamil Nadu,
The Inspector of Police,
District Crime Branch,
Tirunelveli District.
Crime No.44 of 2019.

2.Jeyaraj

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of B.N.S.S., 2023, to call for the entire records pertaining to the case in C.C.No.2715 of 2022 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same as against the petitioner and pass such any or other orders as this Court.

For Petitioner : Mr.R.Anand



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For R-1

: Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

ORDER

This petition has been filed by the petitioner to call for the entire records pertaining to the case in C.C.No.2715 of 2022 pending on the file of the learned Judicial Magistrate No.I, Tirunelveli and quash the same as against the petitioner.

2. The learned Counsel appearing for the petitioner would submit that based on the complaint given by the second respondent, the first respondent registered a case in Crime No.44 of 2019 for the offences under Sections 465, 467, 468, 471 and 420 of the Indian Penal Code, 1860. After that, the first respondent filed a charge sheet and thereafter, the Trial Court had taken cognizance for the offences under Sections 465, 467, 468, 471, 420 and 193 of IPC. But the very order of taking cognizance itself is challenged by the petitioner on the ground that no application of mind by the learned Magistrate and in the charge sheet without any reference in respect of application of mind simply assigned the number and mentioned penal provisions. Apart from that,



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no any order was passed by the learned Magistrate. Therefore, the said order passed by the learned Magistrate is without application of mind and the same is liable to be quashed.

3. The learned Counsel appearing for the petitioner also relied upon the judgments of this Court in ***Senthilandavar Vs. Inspector of Police*** reported in ***2019 SCC Online Madras 2667*** and ***Kannan Vs. State of Tamil Nadu*** reported in ***2023 Caselaw 13651 Mad.***

4. The learned Government Advocate (Crl. Side) appearing for the first respondent would submit that based on the complaint given by the second respondent, they registered a case in Crime No.44 of 2019 and thereafter, they conducted elaborate investigation and filed final report. As per the final report, there are materials available as against the petitioner to attract the penal provisions. Therefore, the petitioner has to face the trial and the present petition is liable to be dismissed.

5. The main point raised by the petitioner is that the learned Magistrate has not passed any order for taking cognizance after applying the mind and



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only mentioned the legal provisions in the charge sheet and thereafter, taken cognizance. Therefore, no order was passed by the Magistrate for taking cognizance by applying his mind. This Court also perused the charge sheet. In the charge sheet, the learned Magistrate mentioned the C.C. number and thereafter, mentioned the penal provisions and no any order passed for taking cognizance.

6. At this juncture, the learned Counsel appearing for the petitioner also produced the following judgments: *Senthilandavar Vs. Inspector of Police* reported in *2019 SCC Online Madras 2667* and *Kannan Vs. State of Tamil Nadu* reported in *2023 Caselaw 13651 Mad.*

7. On a careful perusal of above judgments, it is clear that the process of taking cognizance is a judicial Act and that requires application of mind. A rubber stamp cognizance is not a cognizance in the eyes of law as it merely involves placing the seal on the complaint and filling in the gaps.

8. In the case on hand also, the learned Magistrate has not passed any order after applying mind and only filled up the gaps in the rubber stamp.



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Therefore, pending proceedings against the petitioner in C.C.No.2715 of 2022 is liable to be quashed. The order of the learned Magistrate taking cognizance in the above said case is set aside and the matter has been remanded to the Trial Court for passing orders after applying mind in the charge sheet filed by the respondent police after perusing the records in accordance with law.

9. With the above said observations, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petitions stand closed.

24.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Inspector of Police,
District Crime Branch,
Tirunelveli District.
- 2.The Judicial Magistrate No.I,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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