



Crl.O.P.(MD)No.101 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.01.2025

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.101 of 2025

and

Crl.M.P.(MD)No.80 of 2025

Esakkimuthu

... Petitioner

Vs.

State Represented through,
The Inspector of Police,
Alangulam Police Station,
Tenkasi District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of B.N.S.S., to call for the records pertaining to the impugned FIR made in Crime No.354 of 2024 on the file of the respondent and quash the same insofar as the petitioner is concerned.

For Petitioner	: Mr.M.Arikaran
For Respondent	: Mr.K.Sanjai Gandhi
	Government Advocate

ORDER

This petition has been filed seeking direction to quash the First Information Report in Crime No.354 of 2024 on the file of the 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 petitioner is the sole accused. 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.

3. The learned Government Advocate (Crl.side) submitted that in this case investigation is pending.

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



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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.354 of 2024 on the file of the respondent police.

6. In view of the same, the First Information Report in Crime No. 354 of 2024 on the file of the respondent police is 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.

22.01.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Inspector of Police,
Alangulam Police Station,
Tenkasi 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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