



CRL RC(MD). No.142 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : **18.02.2026**

CORAM

THE HONOURABLE MRS. JUSTICE **N.MALA**

CRL RC(MD). No.142 of 2026
and Crl.M.P(MD)Nos.1739 and 1741 of 2026

1.A.Sudalaimani

2.A.Mala

... Petitioners/Accused 1 and 2

Vs

State of Tamilnadu
rep. By Inspector of Police,,
Vigilance and Anti Corruption
Special Police Station,
Tirunelveli District
Crime No.3 of 2015

... Respondent/Complainant

PRAYER :- This revision is filed under Section 442 of BNSS to call for the order and records in connection with order dated 13.08.2025 in Crl.M.P.No.14 of 2025 in Spl.Case No.5/2023 on the file of the Special Court for Trial of Cases under prevention of corruption Act, Tirunelveli.

For Petitioners : Mr.S.Titus

For Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor



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ORDER

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This Criminal Revision is filed to set aside the order dated 13.08.2025 dismissing the discharge petition filed by the petitioners in CrI.M.P.No.14 of 2025 in S.C.No.5 of 2023 to discharge the petitioners from the alleged offence punishable under Sections 120-B, 167 r/w 34 IPC and Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of Prevention of Corruption Act, 1988, in the charge sheet.

2. The brief case of the prosecution:

The defacto complainant by name, C.Kipson, gave a complaint stating that the petitioners had issued transfer orders dated 22.11.2011 and 17.08.2012 to two teachers namely, G.Arokiyaraj and P.Nambidurai, by overlooking that the defacto complainant was entitled for preference for transfer on the basis of G.O.Ms.No.(1D).No.259 dated 09.09.2011, G.O.Ms.No.(1D)158, dated 18.05.2012 School Education, E1 Department dated 28.04.2010. The defacto complainant had stated that the transfer orders passed by the petitioners were illegal since they were issued for extraneous reasons and by abusing the official position of the petitioners.



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3. Based on the complaint lodged by the defacto complainant, an investigation was conducted and on completion of investigation, a final report in the form of a charge sheet was filed before the Special Court for Exclusive of trial of Cases under Prevention of Corruption Act, 1988 against the revision petitioners.

4. The allegations in the charge sheet are that the petitioners, during their tenure as public servants as defined under Section 2(c) of the Prevention of Corruption Act and in their capacity as the District Elementary Educational Officer, the Assistant respectively, while dealing with the transfer of teachers, entered into criminal conspiracy; In pursuance of such criminal conspiracy, the accused failed to issue transfer order to the defacto complainant namely, C.Kipson on the basis of seniority; The petitioners during the relevant period issued transfer orders to two ineligible teachers namely G.Arokiyaraj and P.Nambidurai by creating incorrect records and defying contemporaneous Government orders; The petitioners illegally granted transfer orders to the two ineligible teachers, which is a valuable thing and thereby, the petitioners



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1 and 2/accused 1 and 2 committed the offences punishable under Sections 120-B, 167 r/w 34 IPC and Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of Prevention of Corruption Act, 1988.

5. The Special Court for exclusive trial of Cases of Prevention of Corruption Act, Tirunelveli, took up the charge sheet on file as S.C.No.5 of 2023. Before the commencement of trial, the petitioners filed a discharge petition under Section 239 of Cr.P.C. The trial court dismissed the petition by order dated 13.08.2025. Aggrieved by the order of the trial court, the petitioners have filed the above Criminal Revision.

6. The respondent filed a counter denying all the averments raised in the petitioners' affidavit. The respondent stated that there was un-rebuttable primary documentary evidence in the form of the original files relating to the transfer orders of the Government issued to ineligible teachers by the accused/petitioners. The respondent further stated that the original files reveal that the transfer orders are in clear violation of contemporaneous orders of the Government and as such illegal. The respondent further stated that all the ingredients of Sections 120-B, 167,



34 IPC and the offence of criminal misconduct by public servants punishable under Section 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, were present in the case.

7. The respondent, by relying on the judgment of the Hon'ble Supreme Court in **State of Tamil Nadu, represented by Inspector of Police vs. N.Suresh Rajan & others**, submitted that at the stage of framing of charge, the Court is required to evaluate the materials and documents with a view to finding out if the facts emerging there from taken at their face value, disclosed the existence of all the ingredients constituting the alleged offence. The respondent further stated that at the stage of framing of charges, the Court was only required to go into the probative value of the material on record and is not expected to delve deep into the evidence. The respondent also stated that it is settled legal position that the accused cannot seek discharge merely on disputed questions of fact. The respondent stated that all the grounds raised in the revision were identical to those raised before the trial court, which were rightly rejected by it. The respondent also stated that the revision itself was filed only to protract the proceedings. The respondent concluded by



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stating that in the absence of any jurisdictional error, interference by this Court was not warranted.

8. The learned counsel for the petitioners submitted that the respondent police failed to note that the defacto complainant challenged the rejection letter dated 18.06.2010 in WP(MD)No.9227 of 2010 and later, relinquished the challenge by restricting his relief to a consideration of his application for transfer dated 30.05.2010. The learned counsel submitted that this vital fact was overlooked by the respondent police and therefore, a wrong charge sheet came to be filed. The learned counsel further submitted that the transfer order was a valid document and since the offence under Section 167 IPC was not made out, the charge sheet was liable to be quashed. The learned counsel further submitted that the ingredients of Sections 120(b) and 34 IPC and the provisions of Section 13(2) of Prevention of Corruption Act, 1988, were not made out in the facts of the case and as such, the charge sheet deserved to be quashed. The learned counsel further submitted that the charge sheet referred to Section 13(2) r/w 13(1)(d)(i)(ii)(iii) of Prevention of Corruption Act, 1988 and since the said provision was not



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available in the Act itself, the charge sheet deserved to be quashed. For the aforesaid reasons, the learned counsel prayed that the revision be allowed and the charge sheet be quashed.

9. The learned Additional Public Prosecutor, appearing on behalf of the respondent, reiterated the contentions raised in the counter affidavit and submitted that in the instant case there was sufficient oral and documentary evidence available on record for framing the charges against the accused/petitioners and therefore, the prosecution, having made out a *prima facie* case, by establishing the existence of factual ingredients constituting the offences, this Court exercising revisional jurisdiction cannot make a roving enquiry into the pros and cons of the matter to interfere with the well considered order of the trial court.

10. Heard both sides and perused the materials available on record.

11. The trial court, on appreciation of the entire materials on record, found that the charge against the accused/petitioners was that they had issued illegal transfer orders to the Teachers in violation of the



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Government orders. The trial court found that the accused/petitioners had suppressed the name of the defacto complainant namely, C.Kipson, who was the eligible applicant. The trial Court, after considering the entire materials on record, found that the petitioners committed the offences under Sections 120-B, 167 and 34 IPC and Section 13(2) rw 13(1)(d)(i) (ii)(iii) of Prevention of Corruption Act, 1988, by misusing their official position as public servants and by issuing illegal transfer orders in violation of G.O.Nos.145, 131, 259, 158, 129 and 139 and the District Office Manual Rule 41. The trial court also rejected the petitioners' plea that there was an inordinate delay between filing of FIR and the charge sheet. The trial court rejected the plea of limitation by holding that under Section 468 Cr.P.C, the power of taking cognizance after the period of limitation was restricted to the offences punishable for imprisonment for a period exceeding one year but not exceeding three years. The trial court also found that the transfer orders were issued for administrative exigency without any complaint being filed against the teachers and therefore held that a *prima facie* case was made out. The trial court also found that the contention of the petitioners that they had issued the transfer orders as per the procedure and no offence was committed by



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them was a matter to be considered at the time of trial, since the court at the stage of discharge was not bound to conduct a mini trial. The trial court concluded that the materials on record clearly established that a *prima facie* case against the accused/petitioners was made out and therefore, the application for discharge deserved to be rejected.

12. This Court finds absolutely no perversity, illegality or jurisdictional error to interfere with the trial court's order. The trial court has considered the materials placed before it in a proper perspective and found that the prosecution had made out a *prima facie* case for presuming that the offence was committed. As rightly pointed out by the trial court, at the stage of discharge the Court cannot conduct a mini trial, or a roving enquiry into the pros and cons of the matter, to weigh the evidence and conduct a trial. On the basis of the entire materials, the trial court rightly found that all the grounds raised in the discharge petition could only be considered during trial when the witnesses and the documents would be examined in detail.



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13. The records reveal that the charge against the accused is that, they conspired together and in violation of G.O.Nos.145, 131, 259, 158, 129 and 139 and the District Office Manual Rule 41, issued illegal transfer orders to ineligible persons by suppressing the defacto complainant's priority. The records *prima facie* show that the accused had violated the aforesaid Government orders. There is a possibility that if the District Office Manual was followed in letter and spirit, the transferees may not have successfully got the transfer orders. All the grounds raised in the revision petition relate to the merits of the matter and the defenses raised therein can be considered only at the time of trial. Therefore, this Court is of the view that *prima facie* materials on record create a strong suspicion leading to a presumptive opinion that there exists factual ingredients for constituting the offence alleged against the accused justifying the framing of charge against them in respect of the offence committed by them.

14. The Hon'ble Supreme Court time and again held that at the stage of considering the discharge petition only probative value of the materials have to be gone into to find out if *prima facie* case for



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proceeding against the accused was made out and that a roving enquiry into the weightage of evidence should not be undertaken at that stage.

Useful reference can be made in this regard to the judgment of the Hon'ble Supreme Court in in **State of Tamil Nadu, represented by Inspector of Police vs. N.Suresh Rajan & others**. In the said judgment, the Supreme Court held as follows:

"29. We have bestowed our consideration to the rival submissions and the submissions made by Mr Ranjit Kumar commend us. True it is that at the time of consideration of the applications for discharge, the court cannot act as a mouthpiece of the prosecution or act as a post office and may sift evidence in order to find out whether or not the allegations made are groundless so as to pass an order of discharge. It is trite that at the stage of consideration of an application for discharge, the court has to proceed with an assumption that the materials brought on record by the prosecution are true and evaluate the said materials and documents with a view to find out whether the facts emerging therefrom taken at their face value disclose the existence of all the ingredients constituting the alleged offence. At this stage, probative value of the materials has to be gone into and the court is not expected to go deep into the matter and hold that the materials would not warrant a conviction. "



15. So also, the Hon'ble Supreme Court in *State of Rajasthan vs.*

Ashok Kumar Kashyap reported in 2021 SCC OnLine SC 314

reiterated the settled position that evaluation of evidence is not permissible at the stage of considering the application for discharge. The Hon'ble Supreme Court in the said judgment held as follows:

"23. In the case of P. Vijayan (supra), this Court had an occasion to consider Section 227 of the Cr.P.C. What is required to be considered at the time of framing of the charge and/or considering the has been considered discharge application elaborately in the said decision. It is observed and held that at the stage of Section 227, the Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding against the accused. It is observed that in other words, the sufficiency of grounds would take within its fold the nature of the evidence recorded by the police or the documents produced before the Court which ex facie disclose that there are suspicious circumstances against the accused so as to frame a charge against him. It is further observed that if the Judge comes to a conclusion that there is sufficient ground to proceed, he will frame a charge under Section 228 Cr.P.C.. if not, he will discharge the accused. It is further observed that while exercising its judicial mind to the facts of the case in order to determine whether a case for trial has been made out by the



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prosecution, it is not necessary for the court to enter into the pros and cons of the matter or into a weighing and balancing of evidence and probabilities which is really the function of the court, after the trial starts."

16. In the same case, while referring to the revisional jurisdiction of the High Court in a discharge application, it was held that the evaluation of evidence on record was beyond the scope of revisional jurisdiction of the High Court. This Court finds that the petitioners have miserably failed to point out the patent irregularity in the trial court's order warranting interference by this Court. The arguments of the learned counsel for the petitioners do not satisfy this Court in the revisional jurisdiction for setting aside the order of the trial court.

17. For the aforesaid reasons, this Court finds no merit in the revision and hence, the same is dismissed. Consequently, connected miscellaneous petitions are closed.

18.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To,

1. Inspector of Police,,
Vigilance and Anti Corruption
Special Police Station,
Tirunelveli District
Crime No.3 of 2015

2.The Special Court
for Trial of Cases under prevention of corruption Act,
Tirunelveli.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.MALA., J

CM

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