



Crl.O.P.(MD) No.1567 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2025

CORAM

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD) No.1567 of 2025
and Crl.M.P(MD).Nos.1073 and 1074 of 2025

S.Hakkim

... Petitioner

Vs.

1.State of Tamil nadu
The Inspector of Police,
Medical College Police Station,
Tirunelveli City.
In Crime No.62 of 2024

2.Sahayam Rayen

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for records relating to the charge sheet in P.R.C.No.245 of 2024 on the file of the learned Judicial Magistrate No.I, Tirunelveli, quash the same as against the petitioner/accused No.6 is concerned.

For Petitioner : Mr.C.Susikumar

For R1 : Mr.M.Sakthikumar
Government Advocate (Crl. Side)



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For R2

: Mr.G.Mohanmumar

ORDER

Seeking quashment of final report in P.R.C No.245 of 2024 on the file of learned Judicial Magistrate No.I, Tirunelveli, this criminal original Petition is filed.

2.The learned counsel for the petitioner submitted that at the instance of the second respondent/ defacto complainant, first information report in Crime No.62 of 2024 was registered on 04.05.2024 for the offence under Section 307 IPC. After conclusion of the investigation, the same culminated in laying the charge sheet for the offences under Sections 307, 448 and 120B IPC. As far as the petitioner, who is the sixth accused, is concerned, he is charged for the offences under Section 120B and 307 IPC. The learned counsel for the petitioner, drawing the attention of this Court to the statement recorded under Section 161 Cr.P.C. from one Fertinrayen, S/o. Sahayamrayen, contended that the only allegation against the petitioner is that he had contacted the said Fertinrayen and pressured him to enter into a compromise. The said Fertinrayen is stated to



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have refused on the ground that he had already lodged a complaint before the Vigilance and Anti-Corruption authorities. Except for this allegation, there is no specific overt act attributed to the petitioner and hence, the offence under section 120B will not certainly be made out. Further, he also indicated that the petitioner was not at all present in the place of occurrence on the date when the defacto complainant was allegedly attacked and hence, sought the indulgence of this Court by quashing the charges as against the petitioner herein.

3.Per contra, the learned Government Advocate (Crl.side) categorically contended that as far as the Section 120B is concerned, it is an independent offence and the presence of the person in the place of occurrence is not at all warranted. Mere conspiracy and instigation would suffice to make out an offence under Section 120 IPC. As far as offence under Section 307 IPC is concerned, if an offence under Section 120B is made out, the same would follow and sought for dismissal of this petition.

4.Heard both sides and carefully perused the materials available on record.



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5. Section 120B IPC is punishment for criminal conspiracy. The definition of criminal conspiracy is defined under Section 120A and the same is extracted as follows:-

“120A. Definition of criminal conspiracy.—When two or more persons agree to do, or cause to be done,— (1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy: Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate object of such agreement, or is merely incidental to that object “

6. The Explanation to the aforesaid provision makes it clear that, for the purpose of constituting the offence of criminal conspiracy, it is immaterial whether the illegal act is the ultimate object of the conspiracy or is merely incidental to the role played by the accused concerned. What



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is essential is that two or more persons must have agreed to do, or caused to be done, an illegal act. Once such agreement is established, the offence of criminal conspiracy stands attracted. In the instant case, the allegation pertains to an attempt to murder the de facto complainant. At the stage of considering a petition for quashment of the final report, this Court is required to examine only whether the allegations made on the face of the record, particularly, in the final report and the materials accompanying it, *prima facie* disclose the commission of any offence. This Court cannot undertake a meticulous appreciation of evidence or adjudicate upon the veracity or otherwise of the allegations at this stage. In the case on hand, a perusal of the final report and the materials placed on record *prima facie* reveals the involvement of the petitioner, who is arrayed as the sixth accused in the alleged occurrence.

7.The contentions raised by the petitioner are purely factual in nature and pertain to disputed questions of fact and defence. Such issues can be duly adjudicated only by the Trial Court at the appropriate stage during the course of trial, upon appreciation of evidence. At this stage, they cannot be tested or conclusively determined. The arguments



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advanced by the learned counsel for the petitioner do not warrant invocation of the inherent jurisdiction of this Court under Section 528 of the BNSS. Criminal proceedings cannot be scuttled at the threshold merely on the basis of the defences projected by the accused, which are matters for trial. When the prosecution has laid a final report disclosing a *prima facie* case, the accused must necessarily face the ordeal of trial. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

8.The personal appearance of the petitioner before the learned Trial Court is ordered to be dispensed with, on conditions that he shall appear at the time of initial questioning, proceedings under Section 313 Cr.P.C., / 351 BNSS, and at the time of passing judgment and on all the hearings, specifically directed by the learned Trial Court.

9.The petitioner shall appear before the Court in the event his presence is insisted by the learned Trial Judge for the purpose of identification. If the petitioner adopt any dilatory tactics, it is open to the learned Trial Court to insist for his appearance and deal with the petitioner in accordance with the law laid down by the



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Hon'ble Supreme Court of India, in the case of State of UP vs. Shambunath Singh¹.

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11.02.2026

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
Rmk

Copy To:

- 1.The Judicial Magistrate No.I, Tirunelveli.
- 2.The Inspector of Police,
Medical College Police Station,
Tirunelveli City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

L.VICTORIA GOWRI, J.

¹ 2001 (4) SCC 667



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