

**IN THE COURT OF THE DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE
CHEYYUR**

PRESENT: Tmt. C.M. Amaravathi., M.L.,
District Munsif-Cum-Judicial Magistrate,
Cheyyur.

Monday, the 04th day of May 2026

CMP.No. No.246-2025

in

Crime No.46/2023

...

V. Duraibabu

..Petitioner / De-facto Complainant

//Vs//

State represented by Inspector of Police,

Anaicut Police Station in Cr.No. 46/2023.

..Respondent / Complainant.

This Petition coming before me today for hearing in the presence of Thiru. E. Prabu, learned counsel for the petitioner/De-facto complainant. Upon perusal of documents and hearing arguments on petitioner side and having stood over for consideration till this date, this court delivers the following.

ORDER

1. The Protest Petition filed Under Section 210 of the Bharatiya Nagarik Suraksha Sanhita prays to further investigation regarding closure report and pass such suitable orders.

2. The brief of averments in the petition:-

2.1. The petitioner / de-facto complainant has filed this application under section 210 of BNSS for directing the Respondent Police to further investigate the case in crime No.46/2023 on the file of G10 Anaicut Police Station.

2.2. The petitioner submitted that, the petitioner filed protest petition against the closure report. The case was initially registered on 20.02.2023 Under section 279 and 337 IPC and later altered as section 304 A IPC after the death of the petitioner's son, Vignesh.

The complaint was lodged against the driver and owner of lorry bearing Registration No.MDS6001 (Ashok Leyland, yellow and green colour) alleged to have caused the fatal accident. On 20.02.2023 at about 17.30 hrs, Vignesh and Karthick were standing left side of the road between near Seevadi Village Flyover and DLR Seat Company while speaking on the phone beside their two- wheeler. At about 18.38 hrs., the said lorry, driven rashly and negligently at high speed Viruthamangalam towards Thachur hit the two – wheeler, throwing both victims and causing severe injuries. Both were taken to Chengalpattu Government Hospital. Vignesh sustained severe head injuries and died on 23.02.2023 at 13:30 hours while Karthik suffered a fractured right leg, lacerated mouth and broken teeth. The FIR was altered to Section 304 A IPC and investigation was conducted by the Inspector of Anaicut Police.

2.3. The petitioner submitted that, during MCOP proceedings, the petitioner came to know that the police filed a final report under Section 173 BNSS 2023 closing the case as “Mistake of Fact”. No notice or copy of such closure report was served to the petitioner, violating principles of natural justice. The police report claims that the accident occurred due to the two- wheeler hitting stones near an agricultural gate, not due to the lorry. The petitioner disputes this conclusion as erroneous and unsupported by evidence. Witness statements and FIR clearly indicate that the lorry hit the two wheeler.

2.4. The petitioner submitted that, the nature of injuries sustained is consistent with a high impact collision by a heavy vehicle not a minor fall. The claim that the lorry had no damage is inconclusive without forensic or expert evidence. The petitioner was not given an opportunity to contest the findings before closure of FIR. Under Section 173(2) BNSS, police must submit a proper report indicating commission of offence. Closure as “Mistake of Fact” wrongly suggests no offence occurred. Under Section 173 (8) BNSS, further

investigation is permissible and necessary in this case. Hence the petitioner seeks rejection of the closure report and direction for proper / further investigation to ensure justice. Hence this petition.

2.5. The learned counsel for the petitioner / de-facto complainant had argued that the investigation officer had not investigate the case in proper prospective and laid that refer charge sheet in hurried manner without appreciating expert evidence on record.

3. Decisions:

The petitioners filed seeking for further investigation regarding closure report filed by the police without given notice to the Defacto Complainant. On careful perusal of final report filed by the investigation officer the finality given by the investigation officer was that the said Vignesh died for lorry hit the Vignesh two wheeler. On care full perusal of entire records Doctor R. Ramachandran attached to institute of forensic medicine, Chengalpattu Government Medical College, had conducted post - mortem over the deceased Vignesh and issued post - mortem certificate where due to effects of Head Injury and sustained. Then it is unclear that how Investigation Officer had arrived to the conclusion that the deceased Vignesh had colluded on the stone and died. Hence it is clear that the Investigation Officer had not conducted the investigation in proper prospective.

4. The Learned petitioner counsel submitted below citations:-

***Promod Kumar & Ors. V. Stae of Uttar Pradesh & Ors.----- 2026 INSC 120
(Supreme Court, 04.02.2026)***

Bench: Justice Rajesh Bindal and Justice Vijay Bishnoi

Held: The Power to direct further investigation under Section 173 (8) Crpc/Section 193(9) BNSS rests solely with the Magistrate or a higher Court. Police /Investigating agencies cannot on their own authority or on executive direction, resist judicial oversight.

A Police officer who acts without Judicial leave acts in complete definance of the procedure laid down under law.

***K.P. Ramasamy & Ors. v. R. Dharamalingam & Ors. --- Crl. R.C. No. 876 of 2019
(Madras High Court)***

Affirmed by Supreme Court of India --- SLP dismissed (2020)

Held: A victim/de facto complainant is mandatorily entitled to notice before acceptance of the final report. If no notice is served, the victim has an absolute right to file a protest petition. This court will place itself at the stage when the final report was filed before the Magistrate and consider the protest petition on merits. The Magistrate has the power to order further investigation till charges are framed.

As per Hon'ble Supreme Court Decisions, this court come to conclusion that, further investigation necessary in this case.

5. Hence from the recital of above discussion it is clear that the further investigation in the case is very much essential in arriving the cause of death of deceased Petitioner's son Vignesh. Hence this protest application is allowed. The Inspector of Police, Anaicut Police Station, is hereby directed to conduct the further investigation in crime No.46/2023 and file a detail report within the period of 1 months.

6. **In the result, this petition is allowed.**

Pronounced by me in open court on this the 04th day of May 2026.

District Munsif-cum-Judicial Magistrate,
Cheyyur.