

IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE,
DINDIGUL DISTRICT

Present: Thiru.V.Padmanabhan, M.A., M.L., D.H.,
Principal District and Sessions Judge, Dindigul.
Tuesday, this the 18th day of August, 2026.

M.P.No.37 of 2026 in S.C.No.163 of 2023.

State through Deputy Superintendent of Police,
Dindigul Town,
Dindigul Town North Police Station,
Crime Number 447 of 2023.

..Petitioner/complainant.

..VS..

1. Asik Muhammed @ Al Ashik (29/23)
S/o Savikkath Ali.
2. Muhammed Irfan (Died)
3. Sheik Abdulla @ Dalco Sheik (21/23)
S/o Muhammed Ismayil.
4. Satham Hussain (20/23)
S/o Syed Ibrahim.
5. Muhammed Meeran (21/23)
S/o Kalil Rahman.
6. Sakthi Maheswaran (21/23)
S/o Mantharraj.
7. Kalil Ahamed (20/23)
S/o Sakkuber Sathick.
8. Muhammed Abdulla (25/23)
S/o Ayupkhan.

9.Thariq @ Muhammed Tariq Anwar. (24/23)

S/o Raja Muhammed.

...Respondents/A1 to A9.

This petition coming before this Court on 07.08.2026 for final hearing in the presence of Thiru.T.Sivachandran, learned Public Prosecutor for the State and of Thiru.P.Ganesan Advocate for R1,R3 and R5 and of Thiru.A.James Ilango Advocate for R2,R4 and R6 and of Thiru.R.Vellaichamy, Advocate for R7 to R9, R2 died during pendency of the case and upon hearing arguments of both sides and on perusing the records and having stood over till this date for consideration, today this Court delivering the following:

ORDER

This petition filed by the Deputy Superintendent of Police, Dindigul Town U/s 173(8) of Code of Criminal Procedure (193(9) of BNSS Act) prays to permit to do further investigation in this case and to file additional final report.

2. The contents of Petition filed by the petitioner/complainant in short are as follows:

The petitioner is the complainant. A FIR was registered against the accused persons in Cr.No. 447 of 2023 for the offence U/s 302 of IPC @ 120(b), 147, 148 and 302 of IPC. Thereafter, the then Inspector of Police namely Thiru.Ulaganathan took up the case for investigation and examined the witnesses and visited the scene of occurrence where he collected materials. Further, he conducted inquest on the dead body of the deceased namely Saravanan and thereafter postmortem was also conducted. Further, he has taken steps to record statements of witnesses U/s 164 of Code of Criminal Procedure and produced them before the learned Judicial Magistrate No.II, Dindigul. He has taken the accused persons in to the police custody after they surrendered before Judicial Magistrate Court at Aruppukottai. He also recorded the confession statement of the accused persons. In pursuant to the said confession

statement he recovered the material objects and thereafter altered the section of law. Whereupon, as per the order of the then Superintendent of Police, Dindigul the then DSP namely R.Gokulakrishnan took up the case for further investigation. When accused were lodged in prison, Identification parade was conducted by the learned Judicial Magistrate in the presence of the eye witness namely Balasubramani PW2. The collected materials were sent to Forensic science laboratory at Madurai. At the end, he completed investigation and laid final report against the accused persons and the same was taken on file as PRC No.70 of 2023 on the file of Judicial Magistrate Court No.II, Dindigul and thereafter it was committed to Principal District Court, Dindigul and taken on file as S.C.No.163 of 2023. Now the case is pending for examination of witness namely LW31.

3. The defacto complainant namely Bavatharani is the wife of the deceased Saravanakumar. In her complaint and statement recorded during investigation U/s 161(3) of Cr.P.C. and also statement recorded by the learned Judicial Magistrate No.II, Dindigul u/s 164 of Code of Criminal Procedure, she has categorically stated that the accused persons murdered her husband. But, during trial she has given contradictory evidence against her previous statement. In the same manner, the other eye witnesses namely Balasubramani who identified the accused persons during identification parade also not supported the prosecution version and treated as hostile witnesses. In the same fashion another one eye witness namely PW3 also was treated as hostile witness.

4. In the meanwhile, one Muthukumar S/o Ramasamy hails from Jamimmuthur village lodged a complaint against Parthiban, Tharik Anwar and Harish Mohammed in Dhadikombu police station on 13.11.2025 against the said accused persons by stating that they cheated him and in this regard FIR registered in Cr.No.405 of 2025 U/s 296(b), 118(1), 351(3), 316(2) and 281 of BNS Act. During investigation A1 namely Parthiban was arrested on 14.11.2025 and his confession statement was recorded by the investigation officer. In the confession statement, he has stated that at the instigation of this case A1 namely Asik Mohammed, the other accused persons involved in the

incident and they were also added as accused. Thereafter, the accused Harish Mohammed was taken into police custody and during police custody he has given disclosure statement by stating that from the prison A1 has written a letter by stating that in deceased Saravanakumar murder case, eye witnesses should not give evidence. In pursuant to the statement he produced 2 letters written by A1 was recovered. From perusal of letters written by A1 to Harish Mohammed, it is seen that the A1 instructed him to take necessary arrangements to treat this case eye witnesses as hostile witnesses. Then only it came to know that at the instigation of A1, his associates by way of threatening or some other method forced the complainant and eye witnesses to give evidence as hostile witnesses. Moreover, the eye witnesses namely PW2 in his statement recorded U/s 164 of Code of Criminal Procedure has also specifically stated that 'If the above-named persons come to know about what I have testified to just now, there is a life threat to me.' So, it is clear that the material witnesses were threatened by the accused and his associates and therefore they have not come forward to give evidence against the accused persons. In these circumstances permission may be granted to conduct further investigation.

4. The contents of counter filed by R1,R3 and A5 adopted by R4, R6, R7, R8 and A9 in short are as follows:

The allegations stated in the petition are denied. The alleged offence for which FIR was registered in Thadikombu P.S. was taken place at Pollachi. There is no explanation why complaint was lodged at Dhadikombu without lodging complaint at Pollachi. A1 was in prison from from 21.07.2023. He can write a letter and also speak through phone. The letters will be sent only after screening done by the concerned jail authorities. In such circumstances this Court has to verify whether the copy of the letter allegedly recovered from the accused was written by A1. Without taking any steps to compare the handwriting, further investigation cannot be prayed. The said letter copies are manipulated one and that petition may be dismissed.

5. The point for consideration in this petition is whether the petition is liable to be allowed or not?

6. **In point**

The respondents have been arrayed as A1 to A9 in the main case. The investigation officer after completion of investigation laid final report against the accused persons by stating that due to the previous motive, the accused persons hatched with conspiracy to murder one Saravanan. In furtherance of said conspiracy on 20.07.2023 at about 18.30 hours the accused persons brutally attacked him in the scene of occurrence and thereby eliminated him. The investigation officer filed final report with the materials collected during investigation and the learned Judicial Magistrate took cognizance of the same and committed it to the Sessions Court. On appearance of accused persons appropriate charges were framed and trial was commenced. When the case is adjourned for examination of remaining witness, the petitioner filed this application for the relief as indicated above.

7. In the application as well as during the course of arguments, the learned Public Prosecutor contended that the investigation agency discovered a new material; the A1 from prison sent letters to his close associate to take steps to treat the material witnesses as hostile witnesses to state and also asked him no one should give evidence against them; copy of the letters were recovered from this case A9, when he was arrested in connection with the case registered in Cr.No.405 of 2025 of Dhadikombu police station; the said accused has given confession statement disclosing letter correspondence and also produced cell phone in which he stored the said communication; the copy of the said letters also produced before the Court; as such during trial, the defacto complainant namely PW1 who is the wife of the deceased and material eye witnesses namely PW2 and PW3 not supported the prosecution version and they were treated as hostile witnesses to the State and that in such circumstances, the Court may permit the investigation officer to conduct further investigation in this regard.

8. The learned Public Prosecutor in support of his contention relied upon the following Judgments delivered by Hon'ble Apex Court and our Hon'ble High Court .

Ram Lal Narang Etc. Vs. State of Delhi (Admn.), (1979 SCC (2) 322), wherein it was held as follows:-

HELD: 1. The police have the statutory right and duty to 'register' every information relating to the commission of a cognizable offence. The police also have the statutory right and duty to investigate the facts and circumstances of the case where the commission of a cognizable offence was suspected and to submit the report of such investigation to the Magistrate having jurisdiction to take cognizance of the offence upon a police report. These statutory rights and duties of the police were not circumscribed by any power of superintendence or interference in the Magistrate; nor was any sanction required from a Magistrate to empower the police to investigate into a cognizable offence.

(a) The scheme of the 1898 Code of Criminal Procedure was that the First Information Report was followed by investigation, the investigation led to the submission of a report to the Magistrate, the Magistrate took cognizance of the offence on receipt of the police report and finally, the Magistrate taking cognizance issued process to the accused. As such ordinarily the right and duty of the police would end with the submission of a report under Section 173(1) Criminal Procedure Code upon receipt of which it was up to the Magistrate to take or not to take cognizance of the offence.

(b) There was no provision in the 1898 Code prescribing the procedure to be followed by the police, where after the submission of a report under Section 173(1) Criminal Procedure Code and after the Magistrate had taken cognizance of the offence, fresh facts came to light which required further investigation. Similarly, there was no express provision prohibiting the police from launching upon an investigation into the fresh facts coming to light after the submission of the report under Section 173(1) or after the Magistrate had taken cognizance of the offence. Therefore further

investigation was permissible and was not altogether ruled out merely because cognizance of the case has been taken by the Court; defective investigation coming to light during the course of a trial could also be cured by a further investigation, if circumstances permitted it. *King Emperor v. Khwaja Wazir Ahmed*, 71 Indian Appeals, PC 203: followed. *Diwakar Singh v. A. Ramamurthy Naidu*, AIR 1919 Madras 751. In *re. Palaniswami Goundan*, AIR 1946 Madras 502; *Mohd. Niwaj v. The Crown*, 48 CrL. L.J. 744 Lahore; *Prosecuting Inspector v. Minaketa Monato*, AIR 1952 Orissa 350; *Ramashankar v. State of U.P.*, AIR 1956 All. 525; In *re. State of Kerala v. State Prosecutor*, 79 CrL. L.J. 1973 p. 1288 (Kerala) D.B.; approved. *H. N. Rishbud v. State of Delhi*, [1955] 1 SCR 1150; *Tara Singh v. State* [1951] SCR 72; referred to.

2. (a) Neither Section 173 nor section 190 lead to the conclusion that the power of the police to further investigate was exhausted by the Magistrate taking cognizance of the offence. Practice, convenience and preponderance of authority, permitted repeated investigations and discovery of fresh facts. Notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the Court by seeking its formal permission to make further investigation.

Observation:

9. Anyone acquainted with the day today working of the criminal courts will be alive to the practical necessity of the police possessing the power to make further investigation and submit a supplemental report. It is in the interests of both the prosecution and the defence that the police should have such power. It is easy to visualise a case where fresh material may come to light which would implicate persons not previously accused or absolve persons already accused. When it comes to the notice of the investigating agency that a person already accused of an offence has a

good alibi, is it not the duty of that agency to investigate the genuineness of the plea of alibi and submit a report to the Magistrate ? After all the investigating agency has greater resources at its command than a private individual. Similarly, where the involvement of persons who are not already accused comes to the notice of the investigating agency, the investigating agency cannot keep quiet and refuse to investigate the fresh information. It is their duty to investigate and submit a report to the Magistrate upon the involvement of the other persons. In either case, it is for the Magistrate to decide upon his future course of action depending upon the stage at which the case is before him. If he has already taken cognizance of the offence, but has not proceeded with the enquiry or trial, he may direct the issue of process to persons freshly discovered to be involved and deal with all the accused, in a single enquiry or trial. If the case of which he has previously taken cognizance has already proceeded to some extent, he may take fresh cognizance of the offence disclosed against the newly involved accused and proceed with the case as a separate case. What action a Magistrate is to take in accordance with the provisions of the Code of Criminal Procedure in such situations is a matter best left to the discretion of the Magistrate. The criticism that a further investigation by the police would trench upon the proceedings before the Court is really not of very great substance, since whatever the police may do, the final discretion in regard to further action is with the Magistrate. That the final word is with the Magistrate is sufficient safeguard against any excessive use or abuse of the power of the police to make further investigation. We should not, however, be understood to say that the police should ignore the pendency of a proceeding before a Court and investigate every fresh fact that comes to light as if no cognizance had been taken by the Court of any offence. We think that in the interests of the independence of the magistracy and the judiciary, in the interests of the purity of the administration of criminal justice and in the interests of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the Court and seek formal permission to make further investigation when fresh facts come to light. As observed by

us earlier, there was no provision in the Code of Criminal Procedure, 1898 which, expressly or by necessary implication, barred the right of the police to further investigate after cognizance of the case had been taken by the Magistrate. Neither Section 173 nor Section 190 lead us to hold that the power of the police to further investigate was exhausted by the Magistrate taking cognizance of the offence. Practice, convenience and preponderance of authority, permitted repeated investigations on discovery of fresh facts. In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the Court by seeking its formal permission to make further investigation. As in the present case, occasions may arise when a second investigation started independently of the first may disclose a wide range of offences including those covered by the first investigation. Where the report of the second investigation is submitted to a Magistrate other than the Magistrate who has already taken cognizance of the first case, it is up to the prosecuting agency or the accused.

10. In the decision reported in *Rama Chaudhary Vs. State of Bihar* case ((2009) 6 SCC 346) it was held as follows:-

6) On the other hand, Mrs. Vimla Sinha, learned counsel for the State of Bihar, submitted that sub-section (8) of Section 173 Cr.P.C. recognizes right and confer statutory duty on the Investigating Agency to conduct further investigation and submit supplementary charge-sheet on the basis of fresh materials at any stage and no prior permission from the Magistrate is required for further investigation. She further submitted that Section 231 of Cr.P.C. gives unfettered right to the prosecution to produce any person as witness even though such person may not have been examined by the Police if examination of such person is necessary for unfolding the prosecution

story. 7) Sub-section (1) of Section 173 of Cr.P.C. makes it clear that every investigation shall be completed without unnecessary delay. Sub-section (2) mandates that as soon as the investigation is completed, the officer in charge of the police station shall forward to a Magistrate empowered to take cognizance of the offence on a police report, a report in the form prescribed by the State Government mentioning the name of the parties, nature of information, name of the persons who appear to be acquainted with the circumstances of the case and further particulars such as the name of the offences that have been committed, arrest of the accused and details about his release with or without sureties. Among other sub-sections, we are very much concerned about sub- section (8) which reads as under:-

"(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-section (2) has been forwarded to the Magistrate and, where upon such investigation, the officer in charge of the police station obtains further evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed; and the provisions of sub-sections (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-section (2)."

8) A mere reading of the above provision makes it clear that irrespective of report under sub-section (2) forwarded to the Magistrate, if the officer in-charge of the police station obtains further evidence, it is incumbent on his part to forward the same to the Magistrate with a further report with regard to such evidence in the form prescribed.

9) The above said provision also makes it clear that further investigation is permissible, however, reinvestigation is prohibited. The law does not mandate taking of prior permission from the Magistrate for further investigation. Carrying out a further investigation even after filing of the charge-sheet is a statutory right of the police. Reinvestigation without prior permission is prohibited. On the other hand, further investigation is permissible.

10) From a plain reading of sub-section (2) and sub-section (8) of Section 173, it is evident that even after submission of police report under sub-section (2) on completion of investigation, the police has a right to "further" investigation under sub-section (8) of Section 173 but not "fresh investigation" or "reinvestigation". The meaning of "Further" is additional; more; or supplemental. "Further" investigation, therefore, is the continuation of the earlier investigation and not a fresh investigation or reinvestigation to be started *ab initio* wiping out the earlier investigation altogether. Sub-section (8) of Section 173 clearly envisages that on completion of further investigation, the investigating agency has to forward to the Magistrate a "further" report and not fresh report regarding the "further" evidence obtained during such investigation.

11) As observed in *Hasanbhai Valibhai Qureshi vs. State of Gujarat and Others*, (2004) 5 SCC 347, the prime consideration for further investigation is to arrive at the truth and do real and substantial justice. The hands of investigating agency for further investigation should not be tied down on the ground of mere delay. In other words, the mere fact that there may be further delay in concluding the trial should not stand in the way of further investigation if that would help the court in arriving at the truth and do real and substantial as well as effective justice.

12) If we consider the above legal principles, the order dated 19.02.2008 of the trial Court summoning the witnesses named in the supplementary charge-sheet cannot be faulted with. It is true that after enquiry and investigation charges were framed on 11.03.2004 and thereafter in the course of trial about 21 witnesses were examined. In the meantime, Police submitted supplementary charge-sheet with certain new materials and on the basis of supplementary charge-sheet, the prosecution filed an application on 12.01.2008 in a pending Sessions Trial No. 63 of 2004 to the trial Court for summoning the persons named in the charge-sheet for their examination as prosecution witnesses. On a careful perusal of the application, the trial Court, by order

dated 19.02.2008, allowed the same and has summoned those witnesses named in the supplementary charge-sheet.

13) The law does not mandate taking prior permission from the Magistrate for further investigation. It is settled law that carrying out further investigation even after filing of the charge-sheet is a statutory right of the Police. [vide K. Chandrasekhar vs. State of Kerala and Others, (1998) 5 SCC 223.] The material collected in further investigation cannot be rejected only because it has been filed at the stage of trial. The facts and circumstances show that the trial Court is fully justified to summon witnesses examined in the course of further investigation. It is also clear from Section 231 of the Cr.P.C. that the prosecution is entitled to produce any person as witness even though such person is not named in the earlier charge-sheet. All those relevant aspects have been taken note of by the learned Magistrate while summoning the witnesses based on supplementary charge-sheet. This was correctly appreciated by the High Court by rightly rejecting the revision. We fully agree with the said conclusion.

14) In the light of the above discussion, we do not find any valid ground for interference, consequently, the appeal fails and the same is dismissed.

11. Further in the decision reported in K.Chandrasekhar, Mariam Rasheeda, S.K.Sharma, S.Nambi Nar Vs.The State of Kerala and others case (LAWS(SC)-1998-4-20), it was held as follows:-

"The report submitted by the Director General of Police disclosed the fact that the he has got reliable information that the conclusions arrived at by the C.B.I. during investigation were not correct. If the case is further investigated more evidence can be collected which would point towards the quilt of the accused." (emphasis supplied) and from the order detention dated September 6, 1997 passed against the appellant Mariyam Rashida by Mr.Mohan Kumar, Additional Chief Secretary, Government of Kerala. The said order reads as under:-

"WHEREAS Smt. Maiyam Rasheeda who is a Maldivian National, a foreigner, is an accused in Crime No.246/94 of Vanchiyoor Police Station. Thiruvananthapuram WHEREAS in the judgment dated 27-12-1996 in O.P.Nos.27-12-96 in O.P.Nos.127-7/96, 14248/96, 15363/96 and 16358/96 the Hon'ble High Court of Kerala said that the order of the Government of Kerala to conduct further investigation in the above crime case is valid. WHEREAS the Government of Kerala have taken steps to obtain the formal permission of the Chief Judicial Magistrate, Thiruvananthapuram to conduct further investigation. AND WHEREAS the Government of Kerala are satisfied that there is sufficient evidence to proceed against the said Mariyam Rasheeda for the offence U/s.3 and 4 of Official Secrets Act and for the purpose of further investigation, her continued presence in India is absolutely necessary and that she is likely to abscond and act in a manner prejudicial to the defence of India and the security of India, unless detained. NOW THEREFORE the Government of Kerala hereby order that the aforesaid Smt. Mariyam rasheeda be detained under section 3(1)(a) and (b) of the National Security Act, 1980(Act No.65 of 1980) in the Central Prison, Vyyoor, Thrissur." (emphasis supplied) If before taking up further investigation an opinion has already been formed regarding the guilt of the accused and, that too, at a stage when the commission of the offence itself is yet to be proved, it is obviously that the investigation can not and will not be fair and its outcome appears to be a foregone conclusion.

12. *In Hasanbhai Valibhai Qureshi Vs. State of Gujarat and others ((2004) 5 SCC 347), , wherein it was held as follows:-*

9. *In Kantilal Chandulal Mehta v. State of Maharashtra (AIR 1970 SC 359) it was held that the Code gives ample power to the Courts to alter or amend a charge whether by the Trial Court or by the Appellate Court provided that the accused has not to face a charge for a new offence or is not prejudiced either by keeping him in the dark about the charge or in not giving him a full opportunity of meeting it and putting forward any*

defence open to him on the charge finally preferred against him. Section 217 deals with recall, if necessary of witnesses when the charge is altered.

10. Therefore, if during trial the trial Court on a consideration of broad probabilities of the case based upon total effect of the evidence and documents produced is satisfied that any addition or alteration of the charge is necessary, it is free to do so, and there can be no legal bar to appropriately act as the exigencies of the case warrant or necessitate.

11. Coming to the question whether a further investigation is warranted, the hands of the investigating agency or the Court should not be tied down on the ground that further investigation may delay the trial, as the ultimate object is to arrive at the truth.

12. Sub-section (8) of Section 173 of the Code permits further investigation, and even dehors any direction from the Court as such, it is open to the police to conduct proper investigation, even after the Court took cognizance of any offence on the strength of a police report earlier submitted. All the more so, if as in this case, the Head of the Police Department also was not satisfied of the propriety or the manner and nature of investigation already conducted.

13. In Om Prakash Narang and Anr. v State (Delhi Admn.) (AIR 1979 SC 1791) it was observed by this Court that further investigation is not altogether ruled out merely because cognizance has beentaken by the Court. When defective investigation comes to light during course of trial, it may be cured by further investigation if circumstances so permitted. It would ordinarily be desirable and allthe more so in this case, that police should inform the Court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary as an expeditious disposal of the mater by the Courts. In view of the aforesaid position in law if there is necessity for further investigation the same

can certainly be done as prescribed by law. The mere fact that there may be further delay in concluding the trial should not stand on the way of further investigation if that would help the Court in arriving at the truth and do real and substantial as well as effective justice. We make it clear that we have not expressed any final opinion on the merits of the case.

14. The appeal is accordingly finally disposed of, on the above terms.

13. In Sri Bhagwan Samardha Sreepada Vs. Venkata Vishwandadha Maharaj Vs. State of Andhra Pradesh and others case (AIR 1999 SC 2332) it was held as follows:-

So the contention that the allegations do not disclose an offence under Section 420 of the IPC has to be repelled and we are of the opinion that the Magistrate has rightly taken cognizance of the said offence. Power of the police to conduct further investigation, after laying final report, is recognised under Section 173(8) of the Code of Criminal Procedure. Even after the court took cognizance of any offence on the strength of the police report first submitted, it is open to the police to conduct further investigation. This has been so stated by this Court in Ram Lal Narang v. State (Delhi Admn.) (AIR 1979 SC 1791). The only rider provided by the aforesaid decision is that it would be desirable that the police should inform the court and seek formal permission to make further investigation. In such a situation the power of the court to direct the police to conduct further investigation cannot have any inhibition. There is nothing in Section 173(8) to suggest that the court is obliged to hear the accused before any such direction is made. Casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. As law does not require it, we would not burden the magistrate with such an obligation. For the aforesaid reasons, we are unable to interfere with the order passed by the magistrate. Appeal is accordingly dismissed.

14. In Anant Thanur Karmuse Vs. State of Maharashtra case (2023 LiveLaw (SC) 136) wherein it was held as follows:-

12.2 It can be seen from the aforesaid that there was no proper investigation by the State investigating agency at the relevant time and even the material evidences were also not collected. At the cost of repetition, it is observed that during the pendency of the writ petition before the High Court and pursuant to the various orders passed by the High Court, the State investigating agency were compelled to investigate in the matter and belatedly the accused No. 13 was chargesheeted in the month of March, 2022. Even according to the State investigating agency, still the further investigation is required on certain aspects. Some of the illustrations / instances which required further investigation are narrated in paragraph 4 of the counter affidavit filed on behalf of the respondent Nos. 1 to 3. Elaborate reasons and on what further investigation is required has not been stated on the apprehension that if the same is disclosed at this stage, it may frustrate the very purpose of the investigation / further investigation.

12.3 Be that as it may, even according to the State investigating agency, the further investigation is required. As observed and held by this Court in the aforesaid decisions, the victim has a fundamental right of fair investigation and fair trial. Therefore, mere filing of the chargesheet and framing of the charges cannot be an impediment in ordering further investigation / re-investigation / de novo investigation, if the facts so warrant.

13. Now, so far as the submission on behalf of the accused that earlier the State through learned AG opposed the writ petition and submitted that there was a fair investigation and now with the change in power, the State agency has changed its stand is concerned, the Courts are not concerned with the stand taken by the State at the relevant time and now. Suffice it to say that at the relevant time when the State police agency took a particular stand, accused No.13 was in power and sitting Minister. The facts narrated hereinabove would suggest the manner in which the earlier investigation was carried out and that the accused No. 13 was only chargesheeted in the second supplementary charge sheet in the month of March, 2022 and not prior to that when the first charge sheet was filed, the supplementary

chargesheet was filed and even when the charges against the other accused were framed. The endeavor of the Court should be to have the fair investigation and fair trial only. Therefore, in the facts and circumstances of the case narrated hereinabove, we are of the opinion that a case is made out for further investigation and the State agency may be permitted to conduct a further investigation and to bring on record the further material, which may be in the furtherance of fair investigation and fair trial. The High Court has committed a very serious error in not ordering and/or permitting the State police agency to further investigate into the FIR bearing Nos. 119 and 120 of 2020. The High Court has not considered the relevant aspects narrated hereinabove and therefore interference of this Court is warranted.

14. In view of the above and for the reasons stated above, present appeal succeeds in part. The impugned judgment and order passed by the High Court refusing to transfer the investigation of the FIR No. 120 of 2020 to CBI is hereby confirmed. The impugned judgment and order passed by the High Court refusing to order further investigation / re-investigation is hereby quashed and set aside and we direct / permit the State investigating agency to further investigate into the FIR bearing No. 120 of 2020 and on what aspects the further investigation shall be carried out is left to the wisdom of the State investigating agency. Further investigation be carried out and completed as early as possible, preferably within a period of three months from the date of receipt of the present order and the further supplementary report be placed before the learned Magistrate in the Trial/before the concerned Trial Court thereafter forthwith, which may be considered by the Trial Court in accordance with law and on its own merits and the accused be tried accordingly and in accordance with law and on merits. Present appeal is partly allowed to the aforesaid extent.

15. In the decision reported in Babujan @ SK. Sabjan Vs. State of Orissa case (2023 Latest Case Law 9360) wherein it was held as follows:-

6. The statute as narrated above clearly describes unambiguously the power of Investigating Officer for further investigation. In the decision relied upon by the petitioner in *Ram Lal (supra)* the Apex Court in Paragraph 22 had held as under:-

"In our view, notwithstanding that a Magistrate had taken cognizance of the offence upon a police report submitted under Section 173 of the 1898 Code, the right of the police to further investigate was not exhausted and the police could exercise such right as often as necessary when fresh information came to light. Where the police desired to make a further investigation, the police could express their regard and respect for the Court by seeking its formal permission to make further investigation."

7. In the aforesaid decision the Apex Court had, however, laid down that :- *"in the interests of independence of the magistracy and the judiciary, in the interests of purity of the administration of criminal justice and in the interest of the comity of the various agencies and institutions entrusted with different stages of such administration, it would ordinarily be desirable that the police should inform the Court and seek formal permission to make further investigation when fresh facts come to light."*

8. Similarly, in *Bhagaban Samardha (supra)*, it is held by the Apex Court that it would be desirable that the Police should inform the Court and seek formal permission to make further investigation.

9. A cumulative reading of the provision U/S. 173(8) of the Cr.P.C. and the decisions cited by the learned counsel for the petitioner, would go to reveal that it would be desirable for the Police to inform the Court and seek formal permission to make further investigation, but the same being not mandatory, there cannot be any fetter to the power of Police to further investigate U/S. 173(8) of the Cr.P.C. The order taking cognizance of offences cannot be questioned merely because the Police has not obtained the formal permission to investigate, either by mistake or otherwise and on that score, the order taking cognizance of offence cannot lose the very ingredients of the offences, under which the cognizance is taken.

16. In the decision reported in *State through Central Bureau of Investigation Vs. Hemendhra Reddy and another case* ((2023) 16 SCC 779) wherein it was held as follows:-

G.Criminal Procedure Code, 1973 -S.173(8) – Further investigation/reinvestigation - Direction for, without hearing accused and taking permission from the Magistrate - Permissibility - Court, held, not obliged to hear the accused before directing further investigation, because casting of any such obligation on the court would only result in encumbering the court with the burden of searching for all the potential accused to be afforded with the opportunity of being heard. Further, the law, held, does not mandate taking of prior permission from the Magistrate for further investigation, because carrying out of a further investigation even after filing of the charge-sheet, held, is a statutory right of the police - However, there held a distinction between further investigation by holding, "Whereas reinvestigation without prior permission is necessarily forbidden, further investigation is not."

85. We may summarise our final conclusion as under:

85.1. Even after the final report is laid before the Magistrate and is accepted, it is permissible for the investigation agency to carry out further investigation in the case. In other words, there is no bar against conducting further investigation under Section 173(8) CrPC after the final report submitted under Section 173(2) CrPC has been accepted.

85.2 Prior to carrying out further investigation under Section 173(8) CrPC it is not necessary that the order accepting the final report should be reviewed, recalled or quashed.

85.3 Further investigation is merely a continuation of the earlier investigation, hence it cannot be said that the accused are being subjected to investigation twice over. Moreover, investigation cannot be put on a par with prosecution and punishment so as to fall within the ambit of clause (2) of Article 20 of the Constitution. The principle of

double jeopardy would, therefore, not be applicable to further investigation.

85.4. There is nothing in CrPC to suggest that the court is obliged to hear the accused while considering an application for further investigation under Section 173(8) CrPC.

17) Further in the decision the reported in Hasanbhai Valibhai Qureshi Vs. State of Gujarat and others case ((2004) 5 SCC 347) wherein it was held as follows:-

When defective investigation comes to light during course of trial, it may be cured by further investigation if circumstances so permitted. It would ordinarily be desirable and all the more so in this case, that police should inform the Court and seek formal permission to make further investigation when fresh facts come to light instead of being silent over the matter keeping in view only the need for an early trial since an effective trial for real or actual offences found during course of proper investigation is as much relevant, desirable and necessary disposal of the matter by the Courts.

18. In the decision reported in Rampaul Gautam and others Vs. State by Mahadevapura Police station case (SLP(Crl)No.796 of 2016) wherein it was held as follows:-

12. At the outset, we may record that a direction to conduct further investigation even after filing of the chargesheet and commencement of the trial is permissible in law as has been held by a catena of judgments of this Court. Reference in this regard may be made to Hasanbhai Valibhai Qureshi v. State of Gujarat and Others 12 wherein, this Court observed that the prime consideration for directing further investigation is to arrive at the truth and to do real substantial justice. The Court further observed that further investigation and re- investigation stand altogether on a different footing. Even de hors any direction from the Court, it is open to the police to conduct a proper investigation notwithstanding the fact that the Court has already taken cognizance on the strength of a poilice report submitted earlier. However, a caveat was added that before directing such investigation, the Court or the concerned police officer has to

apply mind to the material available on record and arrive at a satisfaction that investigation of such allegations is necessary for the just decision of the case.

19. *Further in the decision reported in State of Orissa Vs. Mahima @ Mahimananda Mishra and others case (2007) 15 SCC 580) wherein it was held as follows:-*

8. *The language of the statute is clear enough to indicate that it is not a restrictive one but it has the widest possible sanctity. The statute has provided the said provision for the sake of the concept of justice and in the event, the interest of justice so requires, this further power of investigation has been conferred on the police under Section 173(8) of the Code.*

9. *In the wake of the aforesaid and having considered the submissions and observations of this Court as in Hemant case we do feel it expedient to record that the learned Single*

Judge in exercise of the power under criminal revisional jurisdiction ought not to have interpreted Section 173(8) of the Code with a restriction. The last two lines of the paragraph noticed above viz. "Which were not available at the time of earlier investigation or not within the knowledge of the investigating agency" cannot be said to be a proper expression of law in terms of Section 173(8) of the Code. The impugned judgment is erroneous on a reading of Section 173(8) of the Code and as such cannot be concurred with. The appeal is thus allowed. The impugned order is set aside. The investigation agency will be at liberty to investigate further in the manner as it deems fit and proper in accordance with law.

20. *Further in the decision reported in , Anant Thanur Karmuse Vs. The State of maharashtra and others case (2023 LiveLaw (SC) 136) wherein it was held as follows:-*

3.5 *It is further submitted by Shri jethmalani, learned senior counsel appearing on behalf of the appellant that as observed and held by this Court in the case of Bharrati Tamang Vs. Union of India and Ors.,(2013) 15 SCC 578, in case of deficient*

/unsatisfactory investigation, it is the duty of the Courts to ensure effective conduct of prosecution and the Courts have powers to direct re-investigation in exceptional circumstances in case it warrants due to deficient/unsatisfactory investigation.

12.3 Be that as it may, even according to the State investigating agency, the further investigation is required. As observed and held by this Court in the aforesaid decisions, the victim has a fundamental right of fair investigation and fair trial. Therefore, mere filing of the chargesheet and framing of the charges cannot be an impediment in ordering further investigation/re-investigation/de novo investigation, if the facts so warrant.

13. Now, so far as the submission on behalf of the accused that earlier the State through learned AG opposed the writ petition and submitted that there was a fair investigation and now with the change in power, the State agency has changed its stand is concerned, the Courts are not concerned with the stand taken by the State at the relevant time and now. Suffice it to say that at the relevant time when the State police agency took a particular stand, accused No. 13 was in power and sitting Minister. The facts narrated hereinabove would suggest the manner in which the earlier investigation was carried out and that the accused No. 13 was only chargesheeted in the second supplementary charge sheet in the month of March, 2022 and not prior to that when the first charge sheet was filed, the supplementary chargesheet was filed and even when the charges against the other accused were framed. The endeavor of the Court should be to have the fair investigation and fair trial only. Therefore, in the facts and circumstances of the case narrated hereinabove, we are of the opinion that a case is made out for further investigation and the State agency may be permitted to conduct a further investigation and to bring on record the further material, which may be in the furtherance of fair investigation and fair trial. The High Court has committed a very serious error in not ordering and/or permitting the State police agency to further investigate into the FIR bearing Nos.119 and 120 of

2020. The High Court has not considered the relevant aspects narrated hereinabove and therefore interference of this Court is warranted.

14. In view of the above and for the reasons stated above, present appeal succeeds in part. The impugned judgment and order passed by the High Court refusing to transfer the investigation of the FIR No. 120 of 2020 to CBI is hereby confirmed. The impugned judgment and order passed by the High Court refusing to order further investigation/re-investigation is hereby quashed and set aside and we direct/permit the State investigating agency to further investigate into the FIR bearing No. 120 of 2020 and on what aspects the further investigation shall be carried out is left to the wisdom of the State investigating agency. Further investigation be carried out and completed as early as possible, preferably within a period of three months from the date of receipt of the present order and the further supplementary report be placed before the learned Magistrate in the Trial/before the concerned Trial Court thereafter forthwith, which may be considered by the Trial Court in accordance with law and on its own merits and the accused be tried accordingly and in accordance with law and on merits.

23. **On the other hand**, the learned Counsel appearing for the respondents argued that it is not possible to send a letter from the prison without screening the same by the concerned jail authorities; there is no necessity to register a case in Dhadikombu police station for the alleged offence happened near Pollachi and the said documents are fabricated one and that petition may be dismissed.

24. The learned Counsel for the respondents also relied upon the Judgment reported in Vinubhai Haribhai Malaviya ..vs.. State of Gujarat and another case in Vinubhai Haribhai Malaviya and others Vs. State of Gujarat case ((2019) 17 SCC 1s) wherein it was held as follows:-

“18. It is clear that a fair trial must kick off only after an investigation is itself fair and just. The ultimate aim of all investigation and inquiry, whether by the police or by the Magistrate, is to ensure that those who have actually committed a crime are correctly booked, and those who have not are not arraigned to stand trial. That this is

the minimal procedural requirement that is the fundamental requirement of Article 21 of the Constitution of India cannot be doubted. It is the hovering omnipresence of Article 21 over CrPC that must needs inform the interpretation of all the provisions of CrPC, so as to ensure that Article 21 is followed both in letter and in spirit.

25. It is thus clear that the Magistrate's power under Section 156(3) CrPC is very wide, for it is this judicial authority that must be satisfied that a proper investigation by the police takes place. To ensure that a "proper investigation" takes place in the sense of a fair and just investigation by the police - which such magistrate is to supervise-Article 21 of the Constitution of India mandates that all powers necessary, which may also be incidental or implied, are available to the Magistrate to ensure a proper investigation which, without doubt, would include the ordering of further investigation after a report is received by him under Section 173(2); and which power would continue to ensure in such Magistrate at all stages of the criminal proceedings until the trial itself commences. Indeed, even textually, the "investigation" referred to in Section 156(1) CrPC would, as per the definition of "investigation" under Section 2(h), include all proceedings for collection of evidence conducted by a police officer; which would undoubtedly include proceedings by way of further investigation under section 173(8) of CrPC.

This decision is a clear authority for the view that further investigation is not altogether ruled out merely because cognizance of the case has been taken by the Court; defective investigation coming to light during the course of a trial may be cured by a further investigation, if circumstances permit it. There is no good reason given by the Court in these decisions as to why a Magistrate's powers to order further investigation would suddenly cease upon process being issued, and an accused appearing before the Magistrate, while concomitantly, the power of police to further investigate the offence continues right till the stage the trial commences. Such a view would not accord with the earlier judgments of this Court, in particular, Sakiri 9, Samaj Parivartan Samudya 22 , Vinay Tyagi 25, and Hardeep Singh³⁴; Hardeep Singh

34, having clearly held that a criminal trial does not begin after cognizance is taken, but only after charges are framed. What is not given any importance at all in the recent judgments of this Court is Article 21 of the Constitution and the fact that the Article demands no less than a fair and just investigation. To say that a fair and just investigation would lead to the conclusion that the police retain the power, subject, of course, to the Magistrate's nod under Section 173(8) to further investigate an offence till charges are framed, but that the supervisory jurisdiction of the Magistrate suddenly ceases midway through the pre-trial proceedings, would amount to a travesty of justice, as certain cases may cry out for further investigation so that an innocent person is not wrongly arraigned as an accused or that a prima facie guilty person is not so left out. There is no warrant for such a narrow and restrictive view of the powers of the Magistrate, particularly when such powers are traceable to Section 156(3) read with Section 156(1), Section 2(h) and Section 173(8) CrPC, as has been noticed herein above, and would be available at all stages of the progress of a Criminal case before the trial actually commences.”

25. Further, the learned Public Prosecutor drawn the attention of this Court to the decision reported in *Pramodkumar ..vs.. State of U.P. (2026 INSC 120)* case. In para 28, our Hon'ble Apex Court held as follows:

In the light of the legal position as settled by this Court through the above judgments, it is safe to say that the power to direct further investigation in a case rests solely at the discretion of the Magistrate/Court concerned. In the event, the police/investigation agency is of the opinion that further investigation is necessary in any particular case to cull out complete facts and truth in the case, it is binding upon them to file an appropriate application before the Magistrate/Court, without directing an order for further investigation by themselves. Once such application is filed by the investigation agency, the Magistrate/Court would apply its judicial mind, in the light of the facts and circumstances of the particular case and the reasons demonstrated by the investigating agency, in order to exercise its discretion for the exercise of its power to

decide whether or not further investigation is to be ordered under the purview of Section 173(8) Cr.P.C.

26. In this legal backdrop, this Court has to consider the material on record. It is not in dispute that during trial the material witnesses namely PW1 to PW3 were treated as hostile witnesses as they have rejected the prosecution case in complete. As already indicated, the PW1 lodged a complaint while PW2 and PW3 are eye witnesses to the alleged incident. During investigation, the said material witnesses namely PW1 and PW2 appeared before the learned Judicial Magistrate and gave statements regarding involvement of the accused persons in the alleged incident and the same were recorded by the learned Judicial Magistrate. As such, both the said eye witnesses also identified the accused persons in the prison during identification parade conducted by the learned Judicial Magistrate. With this back drop, later the said material witnesses during trial turned as hostile. When the main case is pending in part heard stage, the petitioner arrested the accused person namely Mohammed Tharik Anwaar (A9) and A1's close associates arrested in connection with the case registered in Cr.No.405 of 2025 U/s 296(b), 118(1), 351(30, 316(20, 281, 111(1), 317(2) and 49 of BNS Act of Dhadikombu P.S. on 13.11.2025. Further according to him, confession statements are recorded and in the confession statement, the A1's close associate namely Mohammed Tharik Anwaar (A9) has stated that at the instigation of A1 committed the said offence and further he has disclosed that when A1 was lodged in prison he sent a letters to him. In other words, in that confession statement, the A9 has been referring in respect of letters said to have been written by A1 to him who is also arrayed as one of the accused in this case, whereupon specifically instigated that at any cost the material witnesses should not give evidence in this case and they would give evidence in support of defence by treating them as hostile witnesses. Further, in the said letter, it has been mentioned that manner in which material witnesses should be gained over. In fact, the petitioner produced the copies of letter and confession statement along with this application. Thus, according to him on the strength of new material collected the

petitioner submitted this petition seeking permission for further investigation to file additional report.

27. In fact, there is no any bar on the part of the trial court if the new material have been surfaced regarding the occurrence in respect of pending case. The above material has been dealing with referring post cognize stage and during trial, it may have connection with the main incident. In such scenario, this Court has to take necessary steps on such new material as to whether it has any bearing regarding the alleged occurrence mentioned in the Charge-sheet. As already indicated in number of judicial decisions delivered by Hon'ble Apex Court and Hon'ble High Court laid down principles regarding circumstances for granting permission to conduct further investigation. In this case also new material has been produced warranting further investigation to **uncover** the truth and also for fair investigation. In such circumstances, this Court feels that the petitioner has made out prima facie of the case for granting permission to conduct further investigation.

28. The learned counsel for the defence during argument hearing would raise question regarding evidentiary value of the document and also stated that it is not possible to send such kind of letters from prison. Both grounds are regarding to the evidentiary value of the questioned letters and it cannot be given much importance at this stage. It can be decided at the end of the trial.

29. At this stage it is relevant to refer a decision of our Hon'ble High Court decision of one in Ganesan ... Petitioner .. Versus.. 1.SHO, District Crime Branch, Villupuram and 2. Kirubasankar case reported in CrI.R.C.No.654 of 2022. In the Judgment it was held as follows:

“15. Section 173(8) of Cr.P.C., does not place any fetter on the Police to conduct further investigation in the case after commencement of trial and whenever they come across any additional information it is just and necessary that the same be brought to the notice of the Court. It is important to note that the Hon'ble Supreme Court of India in Vinubhai Haribhai Malaviya Vs. the State of Gujarat (cited supra) itself has clearly

held that the purpose of further investigation is that any person who has wrongly been prosecuted cannot suffer the same and any person, who was actually committed the offence, should not escape punishment. In that view of the matter, since bringing out the truth is the primordial purpose of investigation and the present application serves the said purpose, I am of the view that the application filed by the prosecution even after the commencement of the trial in this case is maintainable and I answered the question accordingly.”

30. Considering the above circumstances, grounds stated in the petition in the backdrop of hostility attitude of the material witnesses and in the interest of justice, this Court feels that the petitioner is entitled to the relief as prayed for.

31. In view of the above discussions, this Court is of the view that conducting further investigation with regard to the alleged letter is necessary for the just decision of the case. The statutory power of the petitioner for conducting further investigation is to ensure a proper investigation. Hence, the formal request of the petitioner to conduct further investigation is granted. Our Hon'ble High Court pleased to direct this Court to dispose the case within stipulated time, hence, the investigation officer is directed to complete further investigation and to file report as early as possible.

32. In the result, this Petition is allowed and permission is granted to conduct further investigation.

Dictated to the Executive Assistant, transcribed and typed by him in computer, corrected and pronounced by me in open court this the 18th day of August, 2026.

Principal District and Sessions Judge,
Dindigul.

Prl.District and Sessions Court,
Dindigul.

M.P.No.37 of 2026 in S.C.No.163 of 2023.

Order Dt.18.08.2026.