

IN THE COURT OF JUDICIAL MAGISTRATE NO.1 AT KALLAKURICHI**PRESENT : Thiru. J.HARIHARASUDHAN, B.A. L.L.B. (Hons)**Judicial Magistrate No.1,
Kallakurichi.Tuesday the 02nd day of September 2025**M.P No.01 of 2025**
in C.C.No.42/2024Mr. A.Vignesh Saravanan
S/o. Arusamy

... Petitioners/ Accused

// Vs //

SHO, Cyber Crime PS,
Kallakurichi,

... Respondent/ Complainant

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This petition was taken on file 22.04.2025 and came up before me for final hearing in the presence of Advocate Mr.A.Karunamoorthy appearing for the Petitioner and APP Grade II appearing for the respondent, after hearing the submission of respondents side and perusing the written arguments of the petitioner and documents, this court delivers the following....

ORDER

This petition is being filed under section 239 of CRPC praying to discharge the petitioner/accused from alleged offences under section 153, 504, 505 (1)(b) 505 (1)(c) and 291 of IPC and consequently from this Criminal Case in CC.42 of 2024

Gist of Petition:

1. The Combined reading of the final report does not disclose Commission of any offence and no prima facie case is made against the petitioner. The act of the petitioner in publishing a video report concerning the incident on YouTube only constitutes exercise of the fundamental right to freedom of speech and expression under article 19 (1)(a) of the constitution and it cannot attract rigours of the penal provisions invoked. The petitioner has used disclaimers in video which demonstrate that video was intended solely for the purpose of public awareness and journalistic reportage rather than to incite public disorder. Further the petitioner has specifically cautioned the viewers against circulation of unverified or fake content. The petitioner only reported facts and opinions already available in the public domain and he did not venture into the realm of incitement or falsehood so as to attract section 153 of IPC. The petitioner published his video on 19.07.2022 in bonafide exercise of his right to freedom of speech and expression without any knowledge of the order passed by Honorable Madras High Court on 18.07.2022, so the offence under

section 291 of IPC which requires continuance of public nuisance is absent in the present case. Upon the awareness about the said order the petitioner immediately removed his video from YouTube. The video of the petitioner does not contain any language amounting to intentional insult or any material that could incite or provoke a person to disturb public tranquility, so section 504 of IPC does not get attracted in the present case. The petitioner in his video appeals to the public to maintain peace and engage in lawful non-violent protest for securing justice. Accordingly, the essential ingredients of section 505 (1)(b) and 505 (1)(c) of IPC absent in the present case; those sections are mechanically applied against the petitioner. The investigating officer deliberately cherrypicked isolated lines from a 23 minute long video and falsely framed the petitioner under various penal provisions. Accordingly, the charge sheet is devoid of any legal merit and unsupported by any admissible or cogent material to warrant continuation of the criminal proceedings against the petitioner. Hence the accused is to be discharged from this criminal case.

Gist of the Counter:

2. With regard to a death of a school girl and the following riot that happened on 17.07.2022 at Shakti Matriculation School located in Chinnasalem, The Honorable Madras High Court in WP No.18455 / 2022 dated 18.07.2022 ordered that the social media should not engage in parallel investigation with regard to the incident and further The Honorable Madras High Court ordered to take action against those engaging in violation. While so, on 28.07.2022 a social media surveillance police officer Mr.Shivaramakrishnan came across the youtube video of the petitioner containing false information without any evidence about the Sakthi School incident, in violation of the order of Honorable Madras High Court. So FIR was filed against the petitioner/accused and the final report was filed. Further at the stage of framing charges the court has to only see prima facie case to consider whether there is sufficient ground for proceeding against the accused and the court is not to appreciate evidence and conduct mini trial. Such being the position, the present petition is to be dismissed.

Discussion and Decision:

3. The learned counsel for the petitioner filed written arguments and the respondent side also filed written arguments along with the counter. Besides that this court also heard the oral submission put forward on the respondent side. Perused the written arguments of the petitioner side and perused all the case records. On such perusal and consideration of all the case records this Court can see that following the death of one school girl at Shakti Matriculation School located in Chinnasalem, a riot broke out at the school on 17.07.2022 in such riot the school properties, public properties were destroyed and the police were also attacked. With regard to such incident, The Honorable Madras High Court in WP No.18455 / 2022 on 18.07.2022 has ordered as follows:

5..... The investigating agency is further directed to identify the persons, who have formed whatsapp groups and spread false news, which resulted in such rioting situation,

and take action as per law. Besides that, unnecessary parallel investigation being conducted in the Youtube channels should also be blocked, by taking severe action, when the matter is seized by the investigating agency or by the Court.

6. *Therefore, there will be a direction to the Director General of Police, Chennai to issue circular in this regard and take appropriate action to identify the Youtubers, who had spread false news and conducted parallel media trial in the Youtube.*

4. The aforesaid order of the Honorable Madras High Court is quoted by the prosecution for initiating this criminal proceeding against the accused for his publication of video regarding the Shakti school incident. As per the prosecution that video was uploaded on 19.07.2022, i.e. one day after the order of Honorable Madras High Court prohibiting the social media conducting parallel investigation. Even as per the petition, it is seen that the video was published on 19.07.2022 at 10:41 PM. While so the petitioner has claimed in his petition that he was not aware about the order of Honorable Madras High court dated 18.07.2022 before the video was published. In order to understand the context of the allegations made against the petitioner/accused and also to appreciate the contentions put forward by the petitioner, this Court has gone through the alleged video of the accused and found out that in such video at 18:30 minutes the petitioner is seen to have been talking about the case hearing before the court on 18.07.2022 and the court ordering for re-autopsy of the school girl. While such being the case, this Court can see that the petitioner is evidently aware about the court processing and court order on 18.07.2022 with regard to the Death of the School Girl and the Sakthi School Incident. That being so the contention put forward by the petitioner that he was not aware about the Honorable Madras High Court order on 18.07.2022 prohibiting social media parallel investigation of the incident, falls flat as such contention is prima facie appears to have been used by the petitioner only to strengthen the present petition and in order to save himself from the prosecution case.

5. Further on going through the video, this Court has found out that in various places of the video, the petitioner is seen to have engaged in his own investigation about the death of the school girl and created theories about the ways in which the school girl could have died and also talks about his own theory about the school girl's death. Further the petitioner is seen to have talked about condoms being found at the school premises with blood stains without there being any evidence shown on the video. Further the petitioner has engaged in disseminating surmises and conjecture about the birthday party of the school principal / headmaster at the night before the death of the school girl and created his own theory of an imaginary incident, stating that something might have happened that birthday night which would have led to the incident. On overall consideration of all those things stated by the petitioner in his video, it suggests that he has apparently engaged in a parallel investigation with regard to the death of the school girl in violation of the order of prohibition by honorable Madras High Court and by which he apparently tried to fabricate suspicion and mystery about the death of the school girl, to his viewers. The conjectures, surmises and own theory about the death of the school girl put forward by the petitioner in his video would definitely cloud the mind of the viewers about the credibility of death of the

school girl, which will definitely provoke the viewers to form an idea that the school girl was murdered and the real offenders are getting screened by portraying the death as suicide.

6. As already a violent riot has broken out about the incident, The Honorable Madras High Court had put a gag order with regard to social media conducting parallel investigation about the Shakti school's girl death in order to prevent further exacerbation of the issue among the already disgruntled people. In such a situation video of a nature, as published by the petitioner, would definitely confuse the mind of the already disgruntled people. Further as the Honorable Madras High Court has prohibited the parallel investigation supra, as the fundamental right to freedom of speech and expression is subject to exceptions, this court of the opinion the contention of the petitioner that he only exercised is fundamental right is not at all acceptable.

7. Now coming back to the video of the petitioner, this court is of the considered opinion that a video of conjectures, surmises and own theory about the death of the school girl, like the one published by the petitioner, would definitely influence his viewers to form a misinformed opinion that real action is not taken against the real offenders involved in the death of the school girl and real offenders are getting screened from the offence of murder and project to the minds of the viewers that investigation is conducted by the police in a lax manner to help the real offenders. Thereby that video would be propelling the viewers to be unnecessary upset about the 'projected' lax investigation and action being taken with regard to the death of the school girl and provoke them to engage in any other activities, under the clouded eyes of bringing real justice to the school girl, against the school or the government or any other person.

8. So this Court is of the opinion that there are definitely sufficient grounds for proceeding further against the accused for alleged offences and the contention of the petitioners that ingredients of the alleged offences are not made out against the accused cannot be gone into at the present stage of discharge, as the petitioner seems to have contended that ingredients of all the penal provisions, not only some of them, alleged against him are not made out in the present case, which in the opinion of this Court would only be evident at the conclusion of the trial and not at present. So this Court finds that the present petition praying to discharge the accused is of no merits and it is dismissed. The Petitioner/Accused shall appear before this court in person for the questioning on the charges and subsequent charge framing proceedings. In result this petition is dismissed.

Dictated by me to Typist directly typed by her and pronounced by me in open court on this the 02nd day of September 2025.

(Sd./-)J.Hariharasudhan,
Judicial Magistrate No.I,
Kallakurichi.