

IN THE COURT OF THE JUDICIAL MAGISTRATE No.I, METTUR

**Present: N.Gopalakrishnan., B.Sc., B.L.,
Judicial Magistrate No.1, Mettur.**

9th day of February 2026, Monday

CRL.MP.No.327/2026

Asaithambi S/o.Veeran

...Petitioner

Vs.

1) State represented by Sub Inspector of Police

Kolathur Police station, Salem District

**2) State represented by Deputy Superintendent of
Police**

Mettur Police station, Salem District

**3) State represented by District Superintendent of
Police**

Salem District Police station, Salem District

...Respondents

ORDER.

1. This Court heard the submissions of the petitioner and perused the proof affidavit and the documents produced. The compliance enumerated under **Sections 173(3) and 173(4) of the Bharatiya Nagarik Suraksha Sanhita** is also taken into consideration.
2. It is the case of the petitioner that though a complaint had been presented before the jurisdictional police, no First Information Report was registered. Thereafter, a representation was sent by registered post to the Superintendent of Police under Section 173(4). Since no action followed, the present petition has been filed.

3. On examining the petition averments and the earlier complaint, it is seen that the petrol bunk in the name of “**Om Kaali Agencies**” stands in the name of the petitioner.
4. The persons shown as accused, namely Mayakkannan, Raja, Prabhu, Maheswari and Sumathi, are stated to have been working in the said petrol bunk. The petitioner alleges that the manager Mayakkannan failed to submit accounts relating to the bunk and therefore income tax returns for the period 2021–2022 could not be filed. Thus, even according to the petitioner, the alleged irregularities relate to a period prior to 2022. However, the present petition has been filed only on 07 August 2025.
5. The petitioner further states that subsequently the bunk had been operated through Karthikeyan, proprietor of Sampoorna Agencies, for nearly two years. At the same time, he alleges that through the said Karthikeyan, Raja and Prabhu demanded a sum of Rs.66 lakhs by sending false accounts through WhatsApp to his wife.
6. It is also stated that the petitioner’s wife Sathya assumed charge from the oil company on 30 June 2025.
7. Yet, in the same breath, the petition refers to an earlier attempt said to have been made on 16 July 2021 to run the bunk, when the accused persons along with others allegedly obstructed operation unless Rs.66 lakhs was paid. It is then stated that his wife closed the bunk and returned home.
8. The settled position of law is that in a petition seeking direction for FIR, the Magistrate may:
 - a) order registration and investigation if cognizable ingredients requiring police probe are made out; or
 - b) decline such direction and treat the matter as a private complaint, if

the dispute demands proof through evidence before Court.

9. Upon careful consideration, this Court is of the view that directing registration of FIR would not serve the interest of justice for the following reasons:

- a) **Absence of foundational materials:** Though ownership is claimed, no primary documents are placed to show what duties were entrusted to each accused, what collections were made, and how misappropriation occurred.
- b) **Unexplained delay:** Events are said to have occurred from 2017 to 2022, yet criminal process is sought in 2025. The petition offers no convincing explanation. Criminal law cannot be set in motion after such indeterminate delay merely on assertions.
- c) **Nature of dispute doubtful:** If an employee is alleged not to have submitted accounts, that by itself does not automatically constitute a criminal offence. Further, the demand of Rs.66 lakhs creates a serious doubt whether the accused were employees, partners, or persons otherwise running the business arrangement in the petitioner's name.
- d) **Claim based on assumption, not books:** The allegation of loss appears derived from estimated commission calculations rather than actual day-to-day sales registers, stock statements, or audited records.
- e) **Civil complexion:** From 2017 onwards, despite alleged irregularities, no civil recovery proceedings were initiated. Direct recourse to criminal law, bypassing civil remedies, raises suspicion.
- f) **Documentary dominance:** The controversy is overwhelmingly account-based. Police investigation without primary ledgers or statutory records would be a fishing exercise.
- g) **Conduct of petitioner:** Even according to the petition, the bunk

remained under his control. A commercial establishment of this nature is expected to maintain audited accounts and tax filings. The explanation that all records lie with the accused is difficult to accept.

- h) **Closure after threat:** The statement that upon objection the petitioner's wife closed the bunk by herself and left further weakens the claim of continuing illegal control by the accused.

In such circumstances, ordering FIR registration would amount to invoking coercive criminal machinery in a matter that requires adjudication upon sworn testimony and production of documentary proof before Court.

Therefore, instead of directing investigation, this petition filed under **Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita** is treated as a private complaint under Section 223.

The case is adjourned for production name and address of the accused, list of witness and for recording the sworn statement of the complainant and his witnesses, **call on 06.03.2026.**

Judicial Magistrate No.I, Mettur.