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CrI.M.P.358/2026 in Spl.C.C.No.4/2025

IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI.

Present : **Tmt.K.Arivoli, M.A.,M.L.,**

Special Judge,

Special Court for Trial of Cases Under Prevention of Corruption Act,

Sivagangai.

Principal District and Sessions Judge, Sivagangai.

Monday, the 13th day of July - 2026

Criminal Miscelenace Petition.358/2026

in

Spl.C.C.No.4/2025

A.Eswaran

. . . Petitioner / 1st Accused

//vs//

State through Inspector of Police,
Vigilance and Anti Corruption Police Station,
Sivagangai.

(Crime No.6/2024)

. . . Respondent / Complainant

The petition coming on this day for final hearing before me in the presence of Thiru.T.K.Gopalan, Advocate for the Petitioner and learned Special Public Prosecutor for the State and after hearing the both side and perusing the petition, counter and records, this Court delivers the following . . .

ORDER:-

This petition is filed u/s.193(8 & 9) of B.N.S.S Act., for seeking further investigation to direct any other experienced superior investigating officer for



conducting proper further investigation relying on documents furnished by the Petitioner / Accused No.1 and also the following the documents furnished by the Petitioner / Accused No.1.

2) Crux of the petition:-

(i) The Petitioner / Accused No.1 herein filed quash petition to quash the proceedings in Crime No.6 of 2024 on the file of the Respondent / Police before the Hon'ble High Court of Judicature at Madurai Bench in Crl.O.P.(MD) No.19931/2024. The Hon'ble High Court while disposing of the petition vide its order dated 20.11.2024 gave specific findings to the Respondent / Police to consider all the documents produced by the Accused No.1 during the course of investigation. Accordingly, the petitioner / Accused No.1 on 16.12.2024 submitted all the documents to the Respondent / Police in person when he was summoned for enquiry.

(ii) The Respondent / Investigating Agency purposely omitted to consider all the documents submitted by the Petitioner / Accused No.1 to enable the Investigating Agency to comply with the direction of the Hon'ble High Court of Judicature.

(iii) The Defacto Complainant in his written complaint specifically mentioned that he met the Petitioner/Accused No: 1 in his office on 12.08.2024. As the Petitioner/Accused No: 1 produced the video clippings of the Sivagangai Sub Registrar Office No: 1 relating to 12.08.2024 he was on casual leave and was



not present in the above said Sub Registrar's Office functioning as Sub Registrar.

On the other hand, one Kamaraj Kabrial was in charge of the Sub Registrar Office No:1 at Sivagangai. After the Petitioner/Accused No: 1 informing the Defacto Complainant Arputham falsely stated that he met in the Sub Registrar's Office on 12.08.2024, the investigating machinery created false records as if the Defacto Complainant Arputham instead of stating 16.08.2024 mentioned just that he met the Petitioner/Accused No: 1 on 12.08.2024. The Investigating Agency completely to suit their own convenience introduced a false case in support of their own false case.

(iv) The Investigating Agency did not investigate by adopting legal norms and obeying the directions of the Hon'ble High Court of judicature passed in Crl.O.P (MD) No: 19931/2024 dated 20.11.2024. Hence, it legally becomes necessary to return the biased charge sheet filed by the Investigating Agency with a direction to conduct further investigation complying the directions given by the Hon'ble HC of judicature in Crl.O.P (MD) No: 19931/2024 and also after considering all the records and copies of video clippings submitted by the Petitioner/Accused No: 1 before the Investigation Officer in person during enquiry through summon on 16.12.2024 and after completion of the further investigation directing the Investigating Agency to file final report before this Hon'ble Court.

**3) Crux of the Counter:**

(i) The 1st accused was worked as a Sub-Registrar NO.1, Joint Sub Registrar Office, Sivagangai during the period from 01.03.2021 to 29.08.2024. The 1st accused being a public servant on 16.08.2024 had demanded Rs.18,000/- through 2nd accused as on undue advantage for registration of the rectification deed to the defacto complainant. Based on the instruction of the 1st accused the 2nd accused had once again on 27.08.2024 had demanded Rs.18,000/- to the defacto complainant's brother. On 28.08.2024 the 1st had reiterated the earlier demand to the defacto complainant's brother and further instructed the 2nd accused to receive the said amount from the defacto complainant.

(ii) The defacto complainant unwilling to tender undue advantage amount of Rs.18,000/- had lodged a complainant to the Inspector of Police, Vigilance and Anti-Corruption, Sivagangai on 29.08.2024 at 09.00hrs. The First Information Report was registered u/s. 7(a) & 12 of Prevention of Corruption Act 1988 (as amended in 2018) in Sivagangai V&AC Cr. No. 06/2024 against A-1 and A-2.

(iii) Final report was filed against the 1st accused for the demand and acceptance of undue advantage amount of Rs.18,000/- from the defacto complainant Tr.Arputham with the dishonest intension for the improper performance of official duty by corruption or illegal means under section 7(a) of the Prevention of Corruption Act (as amended in 2018).



(iv) The investigating officer has complied the orders of the Hon'ble Madurai Bench of Madras High Court pronounced in CrI.O.P. (MD) No. 19931/2024 in letter and spirit. The investigating officer has considered all the materials submitted by the petitioner/accused. The photo copies of CCTV footages of No.1 Joint Sub-Registry, Sivagangai pertaining to 27.08.2024, 28.09.2024 and 29.08.2024 was also carefully perused and it disclosed that certificate under section 63(4)(c) (Par A and Part B) of Bharatiya Aakshya Athinayam 2023 Act was not enclosed by the 1st accused. The Hon'ble Madurai Bench of Madras High Court in CrI.OP. (MD) No 19931/2024 has passed an order in para 6.2 that "It is open to the investigating officer look into the material subject to the admissibility as per law"

(v) It is submitted that the three photo copies produced by the petitioner are inadmissible and hence the said photo copies cannot be elevated to the stage of secondary evidence. The investigating officer during the course of investigation has conducted profound investigation and obtained the CCTV FOOTAGES OF THE 1st accused office in regard to 16.08.2024 27.08.2024 and 28.08.2024. The investigating officer has also duly complied the statutory provisions of BSA 2023 and certificate was obtained as per section 63(4)(C) (Part A and B).

(vi) It is submitted that the investigating officer has meticulously perused all the materials including the CCTV Footages and the CDR details between the



1st, 2nd accused and the defacto complainant and his brother. During the course of investigation the investigating officer has collected 33 documents and 39 witnesses.

4) Point for consideration :

Whether the petition is to be allowed or not?

5) Heard, Perused records.

6) The Petitioner/Accused No.1 is filed this application to direct any other experienced superior investigating officer for conducting proper further investigation relying on documents furnished by the Petitioner / Accused No.1.

7) The case of the petitioner / 1st accused is that despite of Hon'ble High Court direction order dated:20.11.2024 in Crl.O.P(MD)No.19931/2024, purposely omitted to consider all the documents submitted by petitioner / 1st accused. On the other hand respondent has denied the petition averment by condensing that the investigating officer has meticulously perused all the materials including the CCTV Footages and the CDR details between the 1st, 2nd accused and the defacto complainant and his brother and it disclosed that certificate under section 63(4)(c) (Par A and Part B) of Bharatiya Aakshya Athinayam 2023 Act was not enclosed by the 1st accused.

8) On careful perusal of petition and counter averment and considering the both side arguments it is clear that charge sheet is filed by the investigation officer against this petitioner Eswaran and Tr.Kannan for offence u/s.7(a) of the



Prevention of Corruption Act (as amended in 2018), u/s.12 of the Prevention of Corruption Act (as amended in 2018).

9) According to the petitioner / 1st accused Hon'ble High Court direction not complied by the Investigation Officer with intension, where as respondent has denied it. As per the respondent side arguments being a accused petitioner has no rights seek further investigation and investigation agency alone is having rights to seek further investigation and accused has no say in manner of investigation choosing. To support his contention Public Prosecutor has cited Hon'ble Supreme Court Judgment in *Amrutbhai Shambhalal Patel Vs Sumanbhai Kantibhai Patel* and *Vinubhai Haribhai Malaviya Vs State of Gujarat*.

10) On careful examination of petition averment it seems that petitioner has requested this Court for direction of conducting proper further investigation by any other experienced superior Investigating Officer.

11) As per settled position accused can not seek change an investigation agency, or to require that an investigation be done in a particular manner, which is discussed in detail in the Hon'ble Supreme Court Judgment *Vinubhai Haribhai Malaviya Vs State of Gujarat (AIR 2019 SC 5233)*. Therefore prayer of the petitioner with regard to investigation by some other superior Investigating Officer is rejected as per the settled position.



12) With regard to documents produced by the accused, respondent has condoned that same was taken into consideration and charge sheet is filed. But petitioner side has argued as Investigation Officer has omitted the documents of petitioner / 1st accused. At the juncture this court wants to make it clear that ‘whether documents filed by the accused is taken to consideration or not’ could be decided during the trial and evidence. Moreover there is no bar to cross examine investigation officer by the accused side with regard to allegation stated in this petition. Further more petitioner / accused is having right to file those documents on his side during trial.

13) However in page 3 of the counter respondent has stated certificate u/s. 63(4)(c) (Par A and Part B) of Bharatiya Aakshya Athinayam 2023 Act was not enclosed by the 1st accused. Therefore it is for the petitioner / accused to answer for this objection.

14) The learned petitioner counsel has relied upon i) 2025 SAR (Cri) 1260 Rampal Gautham and others /Vs/ The State by Mahadevapura PS, ii) 2021 (4) MLJ (Crl) 205 Ravi @ Anubav Ravi /Vs/ Inspector of Police Sholurmattam PS, iii) Madras High Court Judgment passed in Crl.RC.No.654 of 2022, dated 01.07.2022 Ganesan /Vs/ SHO, DCB, Villupuram to support his condention. On perusal of said decisions it seems that ii) 2021 (4) MLJ (Crl) 205, iii) Crl.RC.No.654 of 2022, dated 01.07.2022 speaks about maintainability of application by investigating agency u/s.173 (8) of Cr.P.C. and conducting further



investigation. The Hon'ble apex court has discussed on about belated application for further investigation, in which para 16 says as below

"The complainant is left at liberty to take recourse of the suitable remedy for ventilating her grievances which would include filing of an application under Section 311 CrPC and/ or an application under Section 319 CrPC, as may be desired."

15) From the above discussion in the light of said both side decisions it is clear that no convensing reason is available to allow the application as prayed.

16) Hence, this Court has decided to dismiss this application with liberty to petitioner workout his remedy in the manner known to law as discussed.

In the result, **this petition is dismissed.**

Dictated to the steno-typist, typed by his in computer directly, corrected and pronounced by me in open court this the 13th day of July – 2026.

Special Judge,
Special Court for Trial of Cases Under
Prevention of Corruption Act,
Sivagangai.



.10.

Crl.M.P.358/2026 in Spl.C.C.No.4/2025

Special Court for Trial of Cases Under
Prevention of Corruption Act,
Sivagangai.

Crl.M.P.No.358/2026

Dated:13.07.2026.

ORDER

13.07.2026

Special Court for Trial of Cases Under Prevention of
Corruption Act, Sivagangai.