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Crl.M.P.No.2563 of 2025

IN THE COURT OF THE JUDICIAL MAGISTRATE, KARAIKUDI

PRESENT: THIRU. J.KARMEGAKANNAN, B.A., B.L.,

Judicial Magistrate, Karaikudi

Monday, the 23rd day of March 2026

Crl.M.P.No.2563 of 2025

In

C.C.No.1489 of 2022

CNR No.TNSV19 – 004 – 909 – 2025

Arivuselvi,

D/o.Thirunavukkarasu,

W/o.Kumar,

Door No.706, Nesavalar colony,

Managiri Post, Karaikudi Taluk,

Sivagangai District.

..... Petitioner/Complainant

-vs-

Sathu Ramesh,

Inspector of Police,

Kallal Police Station,

Sivagangai District.

Now At

Inspector of Police,

Anna Nagar Police Station,

Madurai District.

.....Accused

Mukamathuparakkattulla

Inspector of Police,

Kallal Police Station.

.....Respondent/Proposed 2nd Accused



This petition is coming on 23.03.2026 for final consideration before me, in the presence of counsel Thiru.S.Rajaram for the Petitioners and Respondents side Advocate of Thiru.R.Ramasamy and upon hearing petitioner side, and perusing the case records, this court delivered the following:

ORDER

1.The petitioner/complainant has filed the present petition under Section 319 of Cr.P.C. seeking to summon the proposed accused, namely Mohammed Fragadhullah, as the second accused in the above case.

2. The case of the petitioner, in brief, is that she is a practicing advocate and her father was a driver, social activist and a member of a political party. Her father had allegedly questioned the illegal theft of river sand and had submitted several complaints to higher authorities against various persons involved in such activities. Due to the same, several persons had developed enmity against her father. It is further submitted that the respondent/accused was working as an Inspector of Police at Kallal Police Station from the year 2016 to 2019. According to the petitioner, on 08.02.2018, when she visited the said police station in connection with her client's case, the respondent/accused used abusive words and warned her father. She had intervened and informed the respondent that she had come only in connection with her client's work and requested him not to take any action against her father. It is the further case of



the petitioner that her father had received a communication in Na.Ka.No.18350 of 2018 dated 01.03.2019, which was received by him on 08.02.2019. It is alleged that her father had sent several complaints to the President of India, the Chief Minister and other higher officials. According to the petitioner, during her visit to the police station, the respondent/accused had fraudulently obtained her signature in a document stating that her father was mentally unstable and that he had made complaints due to such condition. The petitioner has specifically denied signing any such document and contends that the said document marked as Ex.P3 is a fabricated one and was created to portray her father as mentally unsound. It is also stated that on 02.03.2017, the respondent/accused had summoned her father under Section 160 Cr.P.C. to appear on 05.03.2017, and in the meantime, on 03.03.2017, an attempt was allegedly made on her father's life by certain persons, following which he had sent further complaints to higher authorities. The petitioner has further stated that on 12.08.2019 at about 09.00 a.m., her father was found dead in Kallal river under suspicious circumstances in a nude condition. However, the case was closed by the authorities stating that the death was due to poisonous insect bite. Aggrieved by the same, the petitioner has initiated the main case for the alleged offences under Sections 467, 468, 471, 470 and 420 of IPC. It is the specific contention of the petitioner that during the course of cross examination on 06.03.2025 and 19.06.2025, a suggestion was put to the witness that the



disputed document marked as Ex.P3 was not signed by him but was signed by the proposed accused Mohammed Fragadhullah when he was serving as Inspector of Police. Based on the said suggestion, it is contended that there is sufficient ground to summon the proposed accused as the second accused in this case.

3. Per contra, the respondent/accused has filed a counter affidavit denying all the allegations made by the petitioner. It is contended that he does not even know the petitioner's father and that the petitioner's father was a suspended person. He has denied having met the petitioner at the police station or having obtained her signature in any document. He has also denied any involvement in the preparation or execution of Ex.P3 and has stated that he was not working in the said station at the time of preparation of the document. It is further contended that he has no nexus whatsoever with the alleged offences or the disputed document. He has further contended that even according to the petitioner, the document Ex.P3 is not genuine and if at all it is found to have been created by someone else, then a separate case has to be initiated against such person and the present proceedings cannot be continued against him. Hence, he prayed for dismissal of the petition.



4. This Court heard the learned counsel appearing on either side and perused the entire materials available on record.

5. The point for consideration in this petition is whether the petition filed under Section 319 Cr.P.C. seeking to summon the proposed accused as second accused is liable to be allowed or not?

6. At the out set, it is well settled that the power under Section 319 Cr.P.C. is an extraordinary and discretionary power which has to be exercised sparingly and only when strong and cogent evidence is available on record indicating the involvement of a person who is not already arrayed as an accused.

7. In the present case, the entire basis for filing the present petition rests upon a suggestion made during the course of cross-examination that the document Ex.P3 was signed by the proposed accused. Except this suggestion, no independent material or documentary evidence has been produced by the petitioner to establish that the proposed accused was in fact the person who prepared or signed the said document.



8. Further, the petitioner has not produced any official records or documents to show that at the relevant point of time, the proposed accused was serving as Inspector of Police in the said station and was in a position to create or manipulate the document in question. There is also no handwriting expert opinion or any other corroborative evidence placed before this Court to connect the proposed accused with Ex.P3.

9. Moreover, mere suggestions made during cross examination, without any substantive evidence, cannot be taken as proof of involvement of a person so as to invoke the provisions under Section 319 Cr.P.C. The law is clear that such power cannot be exercised on the basis of conjectures or unsubstantiated allegations.

10. In this regard, the principles laid down by the Hon'ble Apex Court in the case of Hardeep Singh vs State of Punjab and others (2014 (3) SCC 92) are relevant, wherein it has been held as follows;-

“ 98. Power u/s 319 Code of Criminal Procedure is a discretionary and an extra-ordinary power. It is to be exercised sparingly and only in those cases where the circumstances of the case so warrant. It is not to be exercised because the Magistrate or the Sessions Judge is of the opinion that some other person may also be guilty of committing the offence. Only where strong and cogent



evidence occurs against a person from the evidence led before the court that such power should be exercised and not in a casual and cavalier manner.

99. Thus, we hold that though only a prima facie case is to be established from the evidence led before the court not necessarily tested on the anvil of cross- examination, it requires much stronger evidence than mere probability of his complicity. The test that has to be applied is one which is more than prima facie case as exercised at the time of framing of charge, but short of satisfaction to an extent that the evidence, if goes rebutted, would lead to conviction. In the absence of such satisfaction, the court should refrain from exercising power u/s.319 Code of Criminal Procedure. In Section 319 Code of Criminal Procedure, the purpose of providing if 'it appears from the evidence that any person not being the accused has committed any offence' is clear from the words "for which such person could be tried together with accused". The words used are not 'for which such person could be convicted'. There is, therefore, no scope for the Court acting u/s 319 Code of Criminal Procedure to form any opinion as to the guilt of the accused."

11. Hence, by applying the said principles to the facts of the present case, this court finds that the petitioner has failed to produce any such strong and cogent evidence. The reliance placed solely on a suggestion made during



cross examination is wholly insufficient to meet the threshold required under Section 319 Cr.P.C.

12. Therefore, this court is of the considered view that the petitioner has not made out any case warranting exercise of power under Section 319 Cr.P.C. to summon the proposed accused.

13. In the result, the petition is dismissed.

Order pronounced by me in the open Court on the 23rd day of March 2026.

Judicial Magistrate,
Karaikudi.