

IN THE COURT OF THE PRINCIPAL SESSIONS JUDGE,
VILLUPURAM,

**Present : Thiru.A. Manimozhi, B.A., LL.B.,
Principal Sessions Judge, Villupuram.**

Friday, the 6th day of March 2026

CRIMINAL APPEAL No.30/2025

(CNR No. TNVP01-002036-2025)

From what court the Appeal is : Judicial Magistrate No.1,
preferred Villupuram.

Number of the case in that court : Crl.M.P.No.7253/2023

Name and Description of the Appellant/Accused : A.Kumariah, (aged 57 years)
S/o Arumugham,
No.1/120, 1st Floor
Eswaran Koil street,
Madipakkam,
Chennai.

Name of the Respondent/Complainant : The State represented
by Deputy Superintendent
of Police,
District Crime Branch,
Villupuram District, Villupuram.

Order passed by the Trial Court : In the result, the petition is dismissed, as premature.

Whether the order passed by the Trial court is confirmed/set aside/modified : In the result, **i)** This Criminal Appeal is dismissed. **ii)** The order dated 06.07.2024 passed in C.M.P.No.7253/ 2023 in C.C.No.92/2023 by the learned Judicial Magistrate No.1, Villupuram is hereby confirmed.

Date of presentation of Appeal : 08.04.2025

Date of filing of Appeal : 10.06.2025

Date of Arguments : 17.02.2026

Date of Judgment : 06.03.2026

This Criminal Appeal is coming on 17.02.2026 for final hearing before me in the presence of Ms.L.Infant Dinesh, Advocate for the Appellant/Accused; and of Thiru.T.S.Subramanian, Public Prosecutor for

the Respondent/State; and upon hearing the arguments of both sides and on perusing case records, this court delivers the following ...

JUDGMENT

This Appeal is filed by the Appellant/Petitioner/Accused under Section 380 of BNSS, 2023, challenging the order dated 06.07.2024 passed in CrI.M.P.No.7253/2023 (in C.C.No.92/2023) on the file of the Learned Judicial Magistrate No.1, Vilupuram, whereby the petition filed by the Appellant under Section 340 and 195(1) (b) of Cr.PC seeking initiation of Criminal Proceedings against certain Police Officers for alleged fabrication and alteration of documents, was dismissed as premature.

2) Facts of the case in brief:-

a) The Appellant was serving as Inspector of Police, Social Justice and Human Rights at Villupuram. During December 2020, he had allegedly informed one Chelladurai (Complainant in the above Calendar Case) that, he had considerable influence with the office of Hon'ble Chief Minister and his Secretary and that he could secure job, for which amount has to be paid in cash. Accordingly, he had received a total sum of Rs.51,24,000/- on various dates from the Complainant and the relatives and

also obtained Original Certificates from them. However, he could not secure job as promised and he had not returned the amount. Therefore, the Complainant filed complaint dated 02.08.2021 before the Inspector General of Police at Chennai, and the same was forwarded to Villupuram and the Respondent registered a case under section 420 of IPC in Cr.No.45/2021 and after investigation filed final report and the same is pending in C.C.No.92/2023.

b) During the course of investigation, the Appellant was arrested and later released on bail. After completion of investigation, Final report was filed and taken on file in C.C.No.92/2023 and the same is pending before the Judicial Magistrate Court No.1, Villupuram.

c) While the case was pending for trial, the Appellant filed a petition under section 340 and 195(1) (b) of Cr.PC., to register a case against the Sub Inspectors of police Mr.Chakrapani and Mr.Veeramani; the Deputy Superintendent of Police Mr.Irudhayaraj and Mr.Uma Shankar; the Superintendent of Police Mr.Srinadha; the Deputy Inspector General of Police Mr.Pandian; and the Inspector General of Police Mr.Santhoshkumar alleging that they misused their official powers, inserted the place "**VILLUPURAM**" as one of the places of occurrence in the complaint

and in the statements of some of the witnesses, in order to artificially create jurisdiction for the Villupuram Court. According to the Appellant, though the alleged occurrence had taken place at Thirunelveli and Koyambedu, the complaint was transferred to Villupuram District and implicated the Appellant in a false case, with a combined intention to remove him from service, for the reasons best known to them.

d) It was further alleged that the statements of some of the witnesses have been fabricated, the confession statement and consequent recovery has been created, the signature of PW7 was signed by Deputy Superintendent of Police Mr.Sampath kumar in the statement of some of the witnesses impersonating the signature of Deputy Superintendent of Police Mr.Irudhayaraj, because he had already got transferred from Villupuram District to other District, and therefore the said Police officers are liable for prosecution under section 195 of IPC.

e) It was therefore prayed that the Court initiate proceedings against the concerned police officials for the offences regarding to fabrication of evidence and false records.

f) The Judicial Magistrate, after hearing the parties dismissed the petition holding that the proceedings under section 340 Cr.PC can be

initiated only after completion of the trial and that the petition is too premature and not maintainable.

g) Aggrieved by the said order, the present Appeal is filed.

3) The grounds of Appeal in brief, are as follows :

i) The Trial Court failed to observe that the Respondents deliberately have inserted the hand written words " **VILLUPURAM**" in the complaint which was filed before the Magistrate to bring out the jurisdiction within the purview of Villupuram District, though in the original typed complaint filed by the Complainant Chellaidurai before the Inspector General of Police it was not mentioned.

ii) The place of occurrence have been mentioned as (i) SRC Residency Thirunelveli (ii) Infront of Virudhunagar District Collector Office Bus Stand and (iii) Chennai Koyambedu sister's house. Nowhere he stated that the place of occurrence is in-front of the Villupuram Collector office.

iii) The Appellant had obtained the copies of the Complaint and they clearly revealed the said fact.

iv) The Respondent have acted against the Appellant only on the grudge against him which is an abuse of process of law.

v) PW1 to PW4 in their statements during the Departmental inquiry, they have not mentioned about the Appellant or he had received money before District Collector office, Villupuram.

vi) The Appellant does not have his sister house at Koyambedu or Vellachery or any of his sibling house at Chennai. He is not having elder sister or elder brother as stated by the Complainant.

vii) The trial court had bluntly dismissed the petition without considering Section 193 of IPC.

viii) The order is biased and arbitrary and liable to be set aside.

SUBMISSIONS OF THE RESPONDENT:

4) a) The learned Public Prosecutor opposed the Appeal and submitted that the Appellant while serving as Inspector of Police, (SJHR) at Villupuram, he had received a total sum of Rs.51,24,000/- from the Complainant Chelladurai for securing job for the candidates. He had neither secured job for the candidates nor returned the amount. He had given three cheques dated 08.05.2021, for a total sum of Rs.51,00,000/-. He admitted all these aspects after he was secured at Hotel Grand Krishna, Madivala, Karnataka State and made confession to the Police Officer and after thorough investigation, Final report was filed against him under

section 420 of IPC.

b) The Appellant already filed CrI.O.P.No.23654/2025 before the Hon'ble High Court for stay of the proceedings in C.C.No.92/2023 on the ground that, there was an insertion of the word "**Villupuram**" by way of interlineation, and hence there was forgery before filing of the case. In the said petition, an adverse order was passed observing that, everything is a matter of evidence and ultimately the said petition was dismissed.

c) In order to attract Sec.340 of CrPC., the alleged offence should have taken place with reference to the document in the Court and during the proceedings (**custodia legis**). But admittedly the complaint when filed before the learned Magistrate had the same word "**Villupuram**". As such, it is a wrong appreciation of provision of law, and the Criminal Appeal itself is not maintainable and liable to be dismissed.

5) Heard the arguments on both sides and perused the records.

6) **The points that arise for consideration in the Appeal are:**

1. Whether the petition filed under sections 340 and 195 of CrPC., before the trial court was maintainable?
2. Whether the learned Magistrate was justified in dismissing the petition as premature?

3. Whether the impugned order requires interference by this Appellate Court?

DISCUSSIONS:

7) **Answer to the point No.1:-**

a) **Section 195(1) (b) of Cr.P.C.**, bars Courts from taking cognizance of certain offences relating to documents produced in Court, except upon a complaint made by that Court.

b) **Section 340 of Cr.P.C.**, provides the procedure to be followed when the Court is of the opinion that it is expedient in the interest of justice to inquire into offences such as fabrication of false evidence or use of forged documents in Judicial proceedings.

c) However, the scope of Sec.195 has been clarified by the **Hon'ble Supreme Court** in several decisions, including *Iqbal Singh Marwah & Another vs. Meenakshi Marwah & Another (2005 (4) SCC 370)*, wherein it was held that, the bar under section 195 applies only when the offence is committed after the document is produced or given in evidence in a proceeding in a Court. i.e. when the document is in **custodia legis**. The said decision has been quoted in the another decision reported in *(2009) 0 AIR (SC) 2282 (Ajoy Kumar Ghose Vs. State of Jharkhand & Another, by the Hon'ble Apex Court)*, which has been relied upon by the learned

Public Prosecutor to support his contention.

d) If the alleged forgery or fabrication had occurred prior to the document being produced in Court, the bar under section 195 does not apply and prosecution can be launched by a private complaint or by the police in-accordance with law.

e) In the present case, the allegation of the Appellant is that the Police officers inserted the word "**Villupuram**" in the complaint and statements of some of the witnesses during investigation. Thus, even according to the Appellant the alleged act occurred before the documents were filed in the Court and therefore the documents were not in **custodia legis** at the time of the alleged alteration. In such circumstances, Section 195 Cr.PC., would not be attracted, and consequently the mechanism under section 340 of Cr.PC cannot be invoked. In this regard, the contention raised by the learned Public Prosecutor is acceptable and the decision relied on by him would squarely apply in principle, to this case. This Court is unable to find any merits in the contention of the Appellant that, Section 193 of IPC., is applicable to this case and so Section 340 of Cr.P.C., can be invoked by the Appellant.

f) The averments in the petition that, in the complaint copy and

F.I.R. which was furnished to the Appellant on 13.01.2023, no hand written and endorsement was found in the 2nd page, 2nd para - 1st line of the complaint lodged by the Complainant before the Inspector General of Police, North Zone dated 02.08.2021; that in the statements of PW1 to PW4 recorded at the time of preliminary and main inquiry on 02.06.2022 and 19.10.2020, they have not mentioned about the Petitioner and that he had received the money before the District Collector office, Villupuram; the fabrication of signature of Mr.Irudhayaraj in the statement of the witnesses PW4 to PW7; creation of false confession and seizure mahazar, are all matter for appreciation in evidence during trial of C.C.No.92/2023, as has been already observed by the Hon'ble High Court of Madras. By merely making averments in the petition, the Appellant is not entitled to invoke section 340 of Cr.PC. Therefore, this Court decides that the petition before the trial court under sections 340 and 195 of Cr.PC., itself was not maintainable. The Point No.1 is answered accordingly.

8) Answer to the point No.2:-

The learned Magistrate dismissed the petition on the ground that the issue could be decided only after trial. Though the reasoning of the Trial Court describes the petition as premature, the materials available on

record show that the petition was, in fact, legally misconceived, since the act alleged took place before the documents reached the Court. Nevertheless, the dismissal of the petition does not cause any prejudice to the Appellant, because he is at liberty to raise all permissible defences during the trial and also to challenge the jurisdiction of the Court in-accordance with law. Hence, this point is decided that the petition is misconceived one.

9) Answer to the point No.3:-

a) The Appellate Court would normally interfere with the order of the Trial Court only if the order suffers from illegality, perversity, or material irregularity. In the instant case, the alleged fabrication is stated to have occurred during the investigation. The documents were not in **custodia legis**. Hence, the procedure under section 195 and 340 of Cr.PC can not be invoked. Therefore, this Court finds no ground to interfere with the dismissal of the petition.

b) In view of the above discussions, this Court holds that the petition was not maintainable and the dismissal of the same by the learned Judicial Magistrate does not warrant interference. The Point No.3 is answered accordingly.

RESULT

In the result, the Judgment is passed as follows:

i) This Criminal Appeal is dismissed.

ii) The order dated 06.07.2024 passed in C.M.P.No.7253/2023 in C.C.No.92/2023 by the learned Judicial Magistrate No.1, Villupuram is hereby confirmed.

This Judgment was dictated by me to the Stenographer, transcribed by her on the Computer, corrected and pronounced by me, in open court, on this 6th day of March 2026.

**Principal Sessions Judge,
Villupuram.**

Corrected

Draft/Fair/Copy Judgment
Crl. Appeal No.30/2025
Dated : 06.03.2026.