

Crl.R.C.(MD).No.526 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.04.2025

PRONOUNCED ON : 04.08.2025

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.526 of 2025

P.Paramasivan

... Petitioner/Petitioner

Vs.

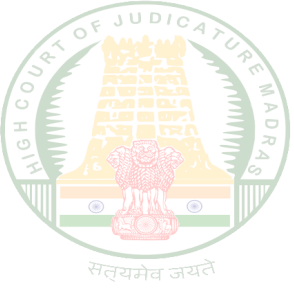
The Inspector of Police,
Cyber Crime Police Station,
Thoothukudi.

: Respondent/Respondent

PRAYER: Criminal Revision Petition has been filed under Section 438 r/w 442 of BNSS, to call for records in R.C.S.No.400 of 2025 in Crime No.41 of 2022, on the file of the learned Judicial Magistrate Court No.IV, Thoothukudi, Thoothukudi District and set aside the order dated 19.03.2025.

For Petitioner : Mr.S.Saravanan

For Respondent : Mrs.M.Aasha
Government Advocate (Crl.Side)



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ORDER

This Criminal Revision is directed against the order passed in R.C.S.No. 400 of 2025 dated 19.03.2025, on the file of the Court of the Judicial Magistrate No.IV, Thoothukudi accepting the final report filed in Cr.No.41 of 2022, on the file of the respondent police as undetected.

2. The petitioner/defacto complainant has lodged a complaint originally with East Police Station, Kovilpatti and subsequently, due to the instructions of the said police, before the respondent police alleging that one Sathish Kumar posted a photo along with comments about Lord Krishna on 19.08.2022 through his Face Book Id: URL-<https://WWW.Facebook.Com/Sathishkumar> 37 (Profile Name Sathish Kumar) wherein the said photo shows that some of the girls nudely taking bath at pool and Lord Krishna seeing it fromt the top of the tree with two comments (i) “காஜி ஜெயந்தி சாரி கிரு:ண ஜெயந்தி வாழ்த்துக்கள் ப்ரண்ட்!இ” (ii)”குளிக்கட்டு நேக்க பொண்ணுட்க மரே!ச திரும ரசிக்கிற பொறிக்கி பய பேய கடவுளாகிட்டான். அதுக்கு கொண்டாட்டம் ுஹ”.

The petitioner has also alleged that he was deeply hurt by the misrepresented



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photo, which caused him significant mental anguish. It is further alleged that the said Sathish Kumar posted the photo and comments with intention of defaming Hindu Gods and damaging the image of Hindu women and potentially creating a law and order problem and promoting enmity between different groups on religion grounds.

3. On the basis of the complaint lodged by the petitioner, F.I.R., came to be registered in Cr.No.41 of 2022 on 26.08.2022 against the unknown person for the alleged offences under Sections 298, 504, 505(2) I.P.C., and Section 67 of the Information Technology Act, 2000. The respondent police, after completing the alleged investigation, filed a final report dated 25.02.2025 (filed on 12.03.2025) before the concerned Court as undetected (UN).

4. The learned Magistrate, upon the receipt of the negative final report, sent a notice to the petitioner/complainant calling for his objections. In pursuance of the said notice received, the petitioner has entered into appearance along with his Counsel before the learned Magistrate and also raised objections. But the learned Magistrate, observing that the petitioner/complainant has neither turned up nor raised any objection to the final report, passed the impugned order

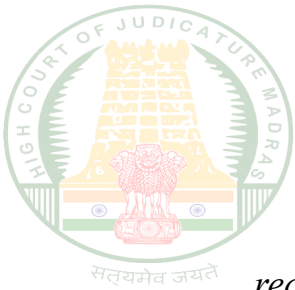


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dated 19.03.2025 accepting the final report filed by the respondent police and consequently, closed the case with liberty to file a private complaint. Aggrieved by the impugned order, the present Criminal Revision came to be filed.

5. It is pertinent to note that the respondent police has filed the final report as undetected (UN). At this juncture, it is necessary to refer the decision of the Hon'ble Full Bench of this Court in ***Chinnathambi @ Subramani Vs. State represented by the Inspector of Police, Vellakovil Police Station, Tirupur District*** reported in ***2017 Crl LJ 2143 (FB)***, wherein they dealt with the validity and legality of final reports as undetected and the relevant passages are extracted hereunder:

“39. Thirdly, if the Investigating Officer, despite the earnest efforts taken, is unable to detect the crime, he will submit a report to the Magistrate stating that the crime is "undetectable". In such a case, it cannot be construed that the investigation has been completed. If once the investigation is completed, then only a report could be filed under [Section 173\(2\)](#) Cr.P.C. A report of this kind where the Police Officer states that the crime is undetectable, does not terminate the investigation and thus, the investigation is construed to be in progress. It is like an interim report not falling within the scope of [Section 173\(2\)](#) Cr.P.C. On receipt of such a report, the learned Magistrate does not pass a judicial order but, instead, he simply



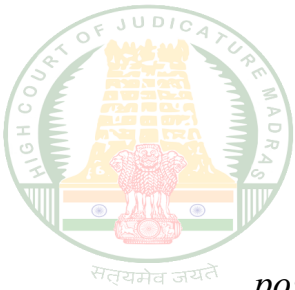
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receives and records the same. There is absolutely no element of any adjudication. This order of the learned Magistrate is undoubtedly not a judicial order.

40. *Section 173(8)Cr.P.C.*, empowers the Police to further investigate. Though the said provision does not explicitly say that the Investigating Officer should get prior permission from the jurisdictional Magistrate before whom earlier a report was submitted by him, the Courts have held the view that in order to maintain procedural propriety, the Investigating Officer is required to seek a formal permission from the Court to do further investigation if the conditions of *Section 173(8)Cr.P.C.*, are satisfied. This power of the learned Magistrate under *Section 173(8)Cr.P.C.*, is not a power to review, revise, vary or cancel the earlier judicial order passed by the learned Magistrate accepting the final report under *Section 173 (2)Cr.P.C.* Notwithstanding the fact whether the order of the learned Magistrate is either a judicial order or a mere ministerial order, the power of the learned Magistrate under *Section 173(8)Cr.P.C.*, is an independent judicial power to grant permission because, *statutorily* the Investigating Officer has been empowered to do further investigation provided the conditions of the said provisions are satisfied.

41. The Division Bench in *K.K.S.S.Ramachandran's* case in para 11 of the judgement has taken the view that an order of the learned Magistrate recording the report that the crime could not be detected is a judicial order. In our considered view, it is not the correct



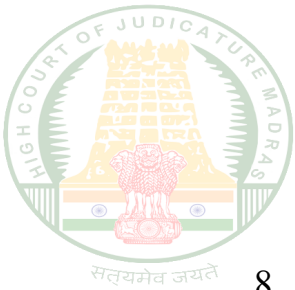
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position of law. As we have held, it is not at all a judicial order as there is no element of adjudication.”

6. As rightly pointed out by the learned Counsel for the petitioner, in the final report, the respondent police has nowhere stated that they are only filing an interim report and in case if they receive any other information or materials, they will proceed with the investigation and file final report. Though the respondent police has filed the final report as undetected, as per the dictum of the Hon'ble Full Bench, the same does not terminate the investigation and the investigation is construed to be in progress and that the report now filed can only be considered as an interim report and not filed within the scope of Section 173(2) Cr.P.C

7. The learned Judicial Magistrate upon the receipt of the final report, as already pointed out, sent a notice to the defacto complainant calling for objections. It is evident from the daily status of the Court of the Judicial Magistrate No.IV for the hearing dated 19.03.2025,

“Notice served to complainant. Called absent. Advocate filed vakalat. Objections raised. On perusal of all the materials, there is no prima facie to take cognizance or to order further investigation. Hence this case is closed with liberty to file Private complaint.”



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8. As rightly pointed out by the learned Counsel for the petitioner, in the impugned order passed on 19.03.2025 itself, the learned Magistrate has observed that the complainant, despite receipt of notice has not chosen to appear on 19.03.2025 nor filed any objection to the final report. As already pointed out, in the case status, it has been specifically mentioned that the defacto complainant has appeared through his Counsel and raised objections. But the learned Magistrate, without disclosing the above aspects, has proceeded to close the case as the complainant has not turned up. Moreover, the learned Magistrate has neither referred nor considered the objections raised by the defacto complainant's side at the enquiry. In view of the legal position above referred, the final report filed by the respondent police as undetectable and the order passed by the learned Judicial Magistrate accepting the final report and closing the F.I.R., cannot legally be sustained.

9. The learned Government Advocate (Crl.Side) would submit that during the investigation, the respondent police sent requisition letters to Face Book authorities to furnish the phone number, Email ID, account verification details, sign up details and IP Logs in connection with two facebook accounts, but the facebook authorities refused to furnish with any information. The learned



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Government Advocate (Crl.Side) would submit that Meta platforms, Inc., in their reply through e-mail has stated that a Mutual Legal Assistance Treaty request or letter rogatory is required for production of information sought for under the applicable law and their terms of service and on that ground, they refused to furnish the information sought for.

10. As rightly pointed out by the learned Counsel for the petitioner, it is not the case of the prosecution that after the receipt of the said reply from Meta platforms Inc., they have taken further action or steps through the other Governmental authorities to get the information. It is evident from the negative final report that the Investigating Officer has only made request to Meta platforms Inc., of United States of America to furnish the information and since they have refused to give the information, proceeded to close the case as undetected (UN).

11. Notably, the respondent police has limited its investigation to merely requesting information from Facebook authorities, without undertaking further investigation. As rightly pointed out by the learned Counsel for the petitioner,



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Sathish Kumar's Facebook page contains personal details, including educational background, work history, residence, and a photograph. The prosecution has not verified the accuracy of these details or provided any explanation for not doing so. While the Investigating Officer identified the post's potential to create law and order issues and disturb communal harmony, the investigation was not pursued diligently, and the final report appears to have been filed mechanically.

12. Depicting Hindu Gods in a disrespectful manner, intentionally hurting the sentiments of millions, cannot be justified. Such actions have the potential to spark enmity, religious outrage, social disorder, and undermine communal harmony. Given the deep-rooted respect for religious symbols and deities, disrespect can lead to social unrest and hurt a large section of society. Therefore, it is crucial to approach such depictions with sensitivity. The Government must ensure that freedom of expression does not translate into hurting religious feelings.

13. The story of Lord Krishna concealing the Gopis' clothes while they were bathing in the river is often seen as a symbolic tale with multiple



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interpretations. One interpretation is that it represents a test of their attachment to the material world, symbolized by their clothing, while the river water represents the temporal body. Lord Krishna, as a divine figure, tests whether devotion to him can transcend worldly attachments. This story highlights the importance of spiritual pursuit and detachment.

14. In the present case, we are not concerned with interpreting or analyzing the story's significance. The depiction and comments, however, clearly exceeded acceptable limits. As the petitioner's counsel rightly argued, the posts had the potential to offend religious sentiments, leading to social unrest. Despite the seriousness of the allegations, the respondent police handled the case casually, halting the investigation and closing it as 'undetected'. Given these circumstances, this Court finds it necessary to direct the respondent to continue and complete the investigation within a stipulated period.

15. In the result, the Criminal Revision Case is allowed and the referred charge sheet and the order passed by the learned Magistrate in R.C.S.No.400 of 2025 in Crime No.41 of 2022, dated 19.03.2025, are hereby set aside. The



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respondent police is directed to proceed with the investigation and complete the same and file a final report within a period of three months from the date of receipt of a copy of this order.

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NCC : Yes/No

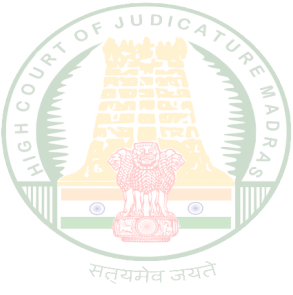
Index : Yes/No

Internet: Yes/No

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To

1. The Judicial Magistrate Court No.IV, Thoothukudi,
Thoothukudi District.
- 2.The Inspector of Police,
Cyber Crime Police Station,
Thoothukudi.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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Pre-Delivery order made in

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