WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 10.09.2026

Pronounced on : 29.09.2026

CORAM

THE HON'BLE MRS.JUSTICE S.ALLI

CRL OP No. 18981 of 2025 and
CRL MP NO.12886 OF 2025

P.Yuthe
W/o.Santhosh,
No.2/376 B , PMS Bus Service Compound,
Kalingarayanpalayam Village,
Bhavani via, Erode District

..Petitioner(s)

Vs

1. State rep by its The Inspector of Police,
   District Crime Branch,
   Erode District
   CC.No.323/2025

2. S.Santhosh
   S/o.S.Suresh

3. S.Sangeeth
   S/o.Suresh

4. Tamilselvi
   W/o.Suresh

5. Suresh
   S/o.Shanmugam.A

6. Harinandhini.S.
   W/o.Sangeeth.S,
   All are residing at No.186/4,11,
   Nanjai Uthukuli A Village,
   Modakurichi Taluk, Erode.
   (R2 to R6 are impleaded as per the order of this court dated 24.08.2026 in Crl.MP.No.14296 of 2025 in Crl.OP.No.18981 of 2025)

..Respondent(s)

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

PRAYER: Criminal Original Petition has been filed under Section 528 of BNSS, praying to setaside the final report and consequently order further investigation by CBCID or any other specialised agency in CC.No.323 of 2025 pending on the file of the Judicial Magistrate II, Erode District in Cr.No.11 of 2023 on the file of the respondent police and file final report afresh as may be required in the circumstances of the case

For Petitioner(s): Mr.V.Subramanian
For Respondent(s): Mrs.R.S.Indira,
Additional Public Prosecutor for R1
Ms.V.Srimathi for R2 to R6

Order

This Criminal Original Petition has been filed to setaside the final report and consequently order further investigation by CBCID or any other specialised agency in CC.No.323 of 2025 pending on the file of the Judicial Magistrate II, Erode District in Cr.No.11 of 2023 on the file of the respondent police and file final report afresh as may be required in the circumstances of the case.

2.The facts of the case are that the petitioner is the defacto complainant in this case. The first accused is the husband of the petitioner; the second accused is the brother of the first accused; the third and fourth accused are the parents of the first accused; and the fifth accused is the wife of the second accused. The marriage between the petitioner and the first accused was solemnized on 30.01.2020 at Sri Plus Mahala, Perundurai, Erode, in accordance with Hindu rituals and customs. At the time of marriage, 200 sovereigns of gold, diamond

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

jewellery, three kilograms of silver articles, and a BMW 630 D GTM Sports car, along with substantial money for registration of the car in the name of "Dhanalakshmi Synthetics Private Limited", were provided. Thereafter, the accused demanded further dowry, including Rs.10 lakhs in cash, Rs.2 lakhs towards marriage attire, gold chains, and luxury articles such as an Apple mobile phone and a Rado watch, which were provided by the petitioner's family. The accused thereafter started a business under the name "HAY Clothing Limited" and appointed the petitioner and the fifth accused as directors. They obtained capital from the petitioner's father and allotted 5,000 shares in the petitioner's name. Subsequently, the accused began to harass the petitioner physically and emotionally and pressured the petitioner to transfer the entire property of her family in favour of the accused family members. During the petitioner's pregnancy, the accused did not welcome the pregnancy and continued to pressure the petitioner to transfer the family property in their favour. The fifth accused and the first accused's grandmother frequently instigated quarrels, while the first accused failed to intervene and supported their demands. The petitioner was sent to her parental home.

3.Thereafter, the accused issued a legal notice containing false allegations, and the first accused filed FCOP No.43/2021 for divorce while the petitioner was pregnant. The petitioner gave birth to a baby girl on 24.03.2021. Since then, neither the first accused nor his family have contacted or visited the

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

petitioner or the child, and the first accused has not exercised any visitation rights. On 29.08.2023, the first and second accused confronted the petitioner and allegedly admitted that the marriage was intended only for obtaining property. They also threatened the petitioner and claimed to have forged the petitioner's signature and documents to remove the petitioner from the company's Directorship and to falsely show the transfer of 4,500 shares to T. Raja on 01.11.2020. The petitioner lodged a complaint with the respondent police on 13.10.2023. However, the Investigating Officer allegedly failed to conduct a proper investigation and did not examine key witnesses or collect material evidence, and hastily filed the charge sheet with the alleged intention of securing the acquittal of the accused.

4.The learned counsel appearing for the petitioner/defacto complainant would submit that the allegation of the petitioner is that the investigation conducted by the respondent police was neither fair, comprehensive, nor objective, and that the materials placed before the Court touch upon the very substratum of the allegations. It is contended that the charge sheet has been filed in haste and without conducting a proper and fair investigation. The Investigating Officer has failed to collect essential company records, digital correspondence, or witness statements to verify the genuineness of the transfer of shares and to ascertain whether the transfer of shares was lawfully effected or not. The charge sheet placed before the trial Court does not disclose any

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

investigation into several aspects which require serious consideration by this Court. The prosecution case itself proceeds on the allegation that the accused persons had conspired to fabricate the documents. The Investigating Officer has not examined one Mr. Karthick, who had knowledge of the preparation and transmission of the alleged resignation letter. The said Karthick had handed over the alleged resignation letter of the petitioner to the auditor, namely, Venkatraman, of the first accused. No attempt appears to have been made to ascertain from the petitioner whether the alleged resignation letter was, in fact, given by her before it was filed with the Registrar of Companies (ROC). Equally, the statement of LW4, the Auditor of the company, regarding the alleged resignation letter, has not been properly investigated. The investigation does not even appear to have examined the genuineness of the resignation letter before acting upon it and submitting it to the Registrar of Companies (ROC).

5.According to the petitioner, it remains unexplained how the resignation letter came into the hands of LW4 and whether the Board of Directors of the company received any notice of resignation, as mandated under Section 168 of the Companies Act, 2013. Instead of being arrayed as one of the accused, the auditor has been cited as a prosecution witness. The Investigating Officer is also silent regarding the transfer of 4,500 shares belonging to the petitioner to one Mr. T. Raja, which is one of the core allegations. The Investigating Officer has failed to collect essential company records, digital correspondence, or

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

witness statements to verify the genuineness of the said transfer. The non-investigation of the share transfer amounts to a grave lapse on the part of the Investigating Officer, seemingly intended to protect the accused. The Registrar of Companies, which deals with the procedure for transfer of shares, ought to have been examined in the context of the alleged transfer. The Investigating Officer ought to have ascertained the procedure prescribed under the Articles of Association of HAY Clothing Limited for effecting the transfer and whether the procedure was actually followed or not.

6.The investigation also does not disclose how the resignation letter came into the hands of LW4, the Auditor, and whether the Board of Directors had received any notice of resignation, as mandated under Section 168 of the Companies Act, 2013, before acting upon the resignation letter. The relevant company records, Minutes of the Board Meeting, statutory registers, share transfer records, and other connected records have not been collected and examined in the manner required for ascertaining the genuineness of the records produced. The alleged resignation letter and the transfer of shares have not been collected and subjected to proper investigation. Thus, the investigation has not established the fundamental questions that arise, namely:

i) whether the complainant had actually executed or submitted the resignation letter;

ii) whether the complainant's resignation letter is genuine or fabricated; if it is fabricated, who forged the resignation letter;

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

iii) whether any investigation has been conducted in respect of the allegation of fabrication/forgery;

iv) who prepared and caused the use of the alleged document;

v) under what circumstances it was used; and

vi) whether there was any alleged conspiracy among the accused persons and, if so, what was the role, if any, of each of the accused.

7.It is also necessary to ascertain whether LW4, the Auditor, verified the genuineness of the resignation letter before acting upon it, and whether the Board of Directors received any valid document to establish the genuineness of the aforesaid resignation letter in accordance with the Articles of Association of HAY Clothing Limited or as per law. However, the shares standing in the name of the complainant came to be transferred in the name of one T. Raja, and it is necessary to ascertain whether the applicable procedure prescribed by the Registrar of Companies for such transfer was followed. Whether the relevant company records disclose the involvement of any of the accused persons in the alleged fabrication and transfer is also required to be investigated. These are matters material to the prosecution case. They go to the root of the allegation that the complainant's shares were unlawfully transferred. The prosecution itself alleges a conspiracy to fabricate the resignation letter. Thus, the circumstances surrounding the preparation, custody, and use of the document require a thorough investigation. The statement of LW4, Auditor of the Company, that the resignation letter was handed over by one Karthick also

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

assumes significance in the circumstances, particularly in view of the failure to examine the said Karthick. In the absence of the crucial document, namely, the resignation letter, which is a material piece of evidence, a proper investigation could not have been completed.

8.This Court is of the view that the manner of investigation ordinarily falls within the domain of the Investigating Officer, and this Court should not ordinarily substitute its own view for that of the Investigating Officer. However, the present case is not one where the petitioner seeks a re-appreciation of the manner of investigation. The grievance directly concerns the failure to ascertain the allegations made in the complaint and, even according to the prosecution, certain aspects of the case have not been pursued at all.

9.The learned counsel appearing for the petitioner relied upon the judgment of the Hon'ble Supreme Court, in the case of ***Kashmeri Devi Vs. Delhi Administration and another***, reported in ***AIR 1988 SC 1323***, held that when an investigation is neither fair nor objective, the Court may direct further investigation by an independent agency. The present case squarely falls within the ratio laid down in the said decision.

10.A charge sheet is the product of an investigation. When such an investigation is tainted and biased, the charge sheet becomes vitiated in law and cannot withstand judicial scrutiny. This infringes upon the petitioner's

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

fundamental rights under Articles 20 and 21 of the Constitution of India. A fair investigation is integral to a fair trial. Therefore, in the interest of justice and to uphold constitutional guarantees, it is imperative that further investigation be conducted by an independent and specialised agency.

11.From the observations of the Hon'ble Supreme Court in the above judgment, the principal principle that emerges is that, where the materials demonstrate that the investigation has not been conducted in a fair and objective manner, further investigation can be directed so that the truth is brought before the Court. The Hon'ble Supreme Court has also recognised that further investigation does not amount to rejection or abatement of the earlier proceedings. It is undertaken when additional investigation is necessary to arrive at the truth.

12.The learned counsel appearing for the petitioner would also submit that the judgment of this Court in the case of ***K. Immanuvel @ Keynos Armstrong Vs. The Superintendent of Police, Central Bureau of Investigation, Chennai and Others***, *in* ***CDJ 2025 Mad HC 5569***, held that:

> *"It is settled law that this Court may order the transfer of an investigation to an independent agency even after the filing of the charge sheet, where the investigation is shown to be unfair, incomplete, or influenced by extraneous considerations. The mere filing of a charge sheet does not prevent this Court from exercising its constitutional powers to ensure a free and impartial investigation."*

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

13.The learned counsel also referred to the judgment in ***Vijay Thiyagi V/s. Irshad Ali and Others***, reported in ***(2013) 5 SCC 762***, wherein a two-Judge Bench of the Hon'ble Supreme Court held that:

> *"Wherever a charge-sheet has been submitted to the Court, even this Court would not ordinarily reopen the investigation, especially by entrusting it to a specialised agency. However, in a proper case, when the Court feels that the investigation by the police has not been in the proper perspective and that in order to complete justice, where the facts of the case demand that the investigation be handed over to a specialised agency, a superior Court is not bereft of the authority to do so."*

14.The learned counsel further submitted that, considering the serious infirmities in the investigation, this Court quashed the charge sheet and transferred the investigation to the CBI for a free, fair trial and impartial inquiry.

15.The learned counsel for the petitioner relied on another judgment of the Hon'ble Supreme Court in the case of ***Babubhai Vs. State of Gujarat and Others***, reported in ***(2010) 12 SCC 254***, in which the Hon'ble Supreme Court of India held as follows:

> *"42. Thus, it is evident that in exceptional circumstances, the Court, in order to prevent the miscarriage of criminal justice, if it considers*

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

necessary, may direct investigation de novo wherein the case presents exceptional circumstances."

"43. In the instant case, admittedly, the High Court has given detailed reasons for coming to the conclusion that the investigation has been totally one-sided, biased and mala fide. One party has been favoured by the investigating agency. The natural corollary to this finding is that the other party has been harassed in an unwarranted manner. Thus, the cause of the other party has been prejudiced."

"45. Not only fair trial but fair investigation is also part of the constitutional rights guaranteed under Articles 20 and 21 of the Constitution. Therefore, investigation must be fair, transparent and judicious, as it is the minimum requirement of the rule of law. The Investigating Agency cannot be permitted to conduct an investigation in a tainted and biased manner. Where non-interference of the Court would ultimately result in failure of justice, the Court must interfere. In such a situation, it may be in the interest of justice that an independent agency chosen by the High Court makes a fresh investigation."

16.In the light of the above decision of the Hon'ble Supreme Court of India and the High Court of Madras, when the Court looks into the facts and circumstances of the present case, it can be seen that the investigation agency

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

has committed serious infirmities in the manner of investigation. Several crucial steps appear to have been omitted, and key witnesses were not examined, casting doubt on the thoroughness, credibility, and reliability of the investigation. The petitioner/defacto complainant has raised serious doubts regarding the manner in which the investigation was conducted by the respondent/Investigating Agency and, in particular, the alleged lapses. It is alleged that the Investigating Officer had colluded with other parties and investigated the case in a biased manner.

17.The defacto complainant, in her affidavit, has clearly stated the same, and the contention of the petitioner/defacto complainant was also substantiated during the arguments of this petition. The contention of the petitioner/defacto complainant creates a serious doubt in the mind of the Court as to whether the Investigating Officer had investigated the case in a fair, independent, and impartial manner.

18.The Court also finds that the deficiencies and infirmities pointed out by the petitioner/defacto complainant are substantial and affect the core allegations. The investigation has proceeded without adequately examining the person who allegedly handed over the document, i.e., the resignation letter of the petitioner/defacto complainant; without properly verifying the genuineness of the resignation letter of the petitioner/defacto complainant; and without examining the procedure by which the transfer of shares was to be made and

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

collecting and scrutinising the relevant company records.

19.At this stage, this Court is not expressing any opinion on the genuineness of the resignation letter alleged to have been given by the petitioner/defacto complainant, the legality of the transfer of the shares of the petitioner/defacto complainant in favour of one T. Raja, the culpability of any of the accused, or the truthfulness of the respective versions. Those questions are to be determined only after a fair investigation.

20.The learned Government Advocate would submit that, in the present case, the respondent has completed the investigation and also filed the final report before the Judicial Magistrate No.II, Erode District, and the trial Court has taken cognizance of the same. Therefore, it is contended that the investigation cannot be ordered to be transferred and that the Criminal Original Petition cannot be allowed to transfer the investigation to some other agency.

21.As already stated, the Hon'ble Supreme Court and this Court have held that, even after the filing of the final report, in order to complete justice and in exceptional circumstances, and in order to prevent a miscarriage of criminal justice, if the Court considers it necessary, it may direct further investigation or investigation de novo where the case presents exceptional circumstances.

22.As such, in the present case also, when the Court goes through the investigation conducted by the respondent, it can be seen that the investigation

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

has not been conducted in a fair and transparent manner and cannot be said to have been conducted impartially. In these circumstances, in the interest of justice, a fair investigation, and in order to uphold the guarantees under Articles 20 and 21 of the Constitution of India, further investigation is warranted. A fair investigation is integral to a fair trial.

23.In the interest of justice, the charge sheet filed by the respondent police pursuant to the investigation conducted in Crime No.323 of 2025 registered at the Police Station, District Crime Branch, Erode District, is hereby quashed. The investigation is accordingly transferred to the Superintendent of Police, Crime Branch Criminal Investigation Department (CBCID), Erode, for a free, fair, and impartial inquiry, independent of media, political influence, or local pressure.

24.The respondent police are directed to forthwith hand over the entire case records, materials, and connected documents to the Superintendent of Police, Crime Branch Criminal Investigation Department (CBCID), Erode. The Superintendent of Police, Crime Branch Criminal Investigation Department (CBCID), Erode, shall complete the investigation and file a comprehensive final report before the competent Court within a period of five months from the date of receipt of the records, subject to extensions only on sufficient cause being shown.

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

25.In view of the above, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

29-09-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

AH

To

1.The Judicial Magistrate No.II, Erode.

2.The Superintendent of Police,
Crime Branch Criminal Investigation Department (CBCID),
Erode.

3.The Inspector of Police,
District Crime Branch,
Erode District.

4.The Public Prosecutor,
High Court,
Madras.

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in

WEB COPY

S.ALLI J.

AH

CRL OP No. 18981 of 2025
AND
CRL MP NO. 12886 OF 2025

29-09-2026

https://www.mhc.tn.gov.in/judis
IBC Laws | www.ibclaw.in