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Crl.O.P.No.35020 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 30.06.2026

PRONOUNCED ON : 21.07.2026

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.35020 of 2025
and Crl.M.P.Nos.24577 of 2025 & 3904 of 2026

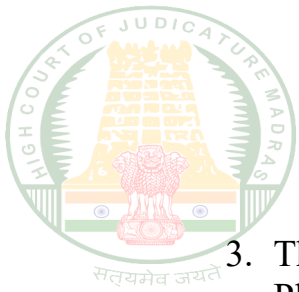
1. Vivek Venkatesan
Proprietor of M/s.Amman Pharma,
S/o.Vengadesan,
33, Mariyamman Kovil Street,
Sivaranthagam Pet, Kojur,
Puducherry.

2. Raja @ Valliappan
S/o.Nachiyappan,
2nd Cross Srinivasan Nagar,
Ariankuppam Commune,
Puducherry.

..Petitioner(s)

Vs

1. The State of Puducherry
Rep by, The Inspector of Police,
CBCID Police Station,
Puducherry.
2. Sun Pharma Laboratories Limited,
Rep. by its authorized representative
Rajesh Kumar Sharma,
Executive Corporate Affairs,
8-C, 8th Floor, Hansalya Building,
15, Barakhamba Road,
Connaught Place,
New Delhi-110 001.



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3. The Central Bureau of Investigation
Plot No.5-B, CGO Complex,
Lodhi Road,
New Delhi-110003.
(R3 is impleaded as per the order of this court
dated 25.06.2026 in Crl.MP.No.3902 of 2026 in
Crl.OP.No.35020 of 2025)

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita, 2023, to call for the entire records and quash
the FIR in Crime No.27 of 2025 dated 12.11.2025, pending on the file of
the 1st respondent.

For Petitioners	: Mr.V.Raghavachari Senior Counsel For Mr.S.Senthil
For Respondents	
For R1	: Mr.M.V.Ramachandramurthy Public Prosecutor (Pondy)
For R2	: Mr.P.Kumaresan For Mr.A.Rameshkumar
For R3	: Mr.E.Srinivasan, Senior Counsel Special Public Prosecutor for CBI

ORDER

This petition has been filed to quash the FIR registered in
Crime No.27 of 2025 on the file of the first respondent, for the offences
punishable under Sections 276, 318(4), 61 of Bharatiya Nyaya Sanhita,
2023 (hereinafter referred to as “BNS”) and Sections 27(d), 17B(b) of the
Drugs and Cosmetics Act, 1940 (hereinafter referred to as “DC Act”).



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2. On the complaint lodged by the second respondent, the first respondent registered the FIR in Crime No.27 of 2025 alleging that the second respondent company is engaged in manufacturing and marketing a wide range of intermediates, active pharmaceutical ingredients and drug products and has a research center at located at Vadodara, Gujarat State. It owns several registered trademarks including Rosuvas, Ranozex, Montek, Volibo, Rozavel, Levipil, Gemer, Instament and Ticagerlor.

3. While being so, in the month of May, 2023, the second respondent began detecting large scale counterfeiting of its medicines across multiple States including Maharashtra, Rajasthan, Delhi, West Bengal, Telangana and Uttar Pradesh. These counterfeit medicines are serious risk to public health and caused immense damage to the second respondent's reputation and business. During the enquiry, it is discovered that the first petitioner is a key player in the supply chain of these counterfeit medicines, having supplied counterfeit products to various distributors in Agra, Lucknow and other cities. The counterfeit medicines led to Puducherry, where the second petitioner was found to be operating manufacturing and storage facilities for these spurious drugs under the



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guise of M/s. New Jersey Life care Pharma and M/s. Parm House. In this

regard, on the complaint, the FIRs got registered in Crime Nos.37 of 2025, 61 of 2025, 62 of 2025 at Agra, Crime No.446 of 2025 at Muzaffarnagar and in Crime No.195 of 2025 at Delhi.

4. The learned Senior Counsel appearing for the petitioners submitted that for the very same set of allegations, there cannot be more than one FIR. Already in the State of Maharashtra, Rajasthan, West Bengal, Delhi and Telangana, FIRs have been registered and as such, there is no need to register another FIR on the file of the first respondent. Even as per the allegations, no offence is made out under BNS or DC Act. Even assuming that there are allegations, the first respondent or any other investigation agency under the BNSS or BNS is not empowered to investigate the offence, which exclusively falls under the domain of DC Act. Therefore, the very registration of FIR and the investigation including the action of raid and seizure of products at the premises of the accused are illegal and without any jurisdiction. The DC Act provides powers and jurisdiction to the Drugs Inspectors to investigate with regard to spurious and adulterated drugs under the DC Act. The allegations leveled as against the petitioners to be enquired only by the Drug



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Inspector under the DC Act. The provision under Section 32 of the DC

Act empowers the Drugs Inspectors to lodge complaint. Therefore, no prosecution for the offence falling under Chapter IV of the DC Act shall be instituted except on a complaint by the Drugs Inspector or any other gazetted officer as contemplated under Section 32 of the DC Act. Therefore, the first respondent has no jurisdiction to register any FIR.

4.1. In support of his contention, he also relied upon the judgment reported in **(2021) 12 SCC 674** in the case of **Union of India Vs. Ashok Kumar Sharma & ors.**, in which the Hon'ble Supreme Court of India held as follows:-

“170. Thus, we may cull out our conclusions/ directions as follows:

170.1. In regard to cognizable offences under Chapter IV of the Act, in view of Section 32 of the Act and also the scheme of CrPC, the police officer cannot prosecute offenders in regard to such offences. Only the persons mentioned in Section 32 are entitled to do the same.

170.2. There is no bar to the police officer, however, to investigate and prosecute the person where he has committed an offence, as stated under Section 32(3) of the Act i.e. if he has committed any cognizable



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offence under any other law.

170.3. Having regard to the scheme of CrPC and also the mandate of Section 32 of the Act and on a conspectus of powers which are available with the Drugs Inspector under the Act and also his duties, a police officer cannot register an FIR under Section 154 CrPC, in regard to cognizable offences under Chapter IV of the Act and he cannot investigate such offences under the provisions of CrPC.

170.4. Having regard to the provisions of Section 22(1)(d) of the Act, we hold that an arrest can be made by the Drugs Inspector in regard to cognizable offences falling under Chapter IV of the Act without any warrant and otherwise treating it as a cognizable offence. He is, however, bound by the law as laid down in D.K. Basu 16 and to follow the provisions of CrPC.

170.5. It would appear that on the understanding that the police officer can register an FIR, there are many cases where FIRs have been registered in regard to cognizable offences falling under Chapter IV of the Act. We find substance in the stand taken by learned Amicus Curiae and direct that they should be made over to the Drugs Inspector, if not already made over, and it is for the Drugs Inspector to take action on the same in accordance with the law. We must record that we are resorting to our power under Article 142 of the Constitution b of India in this regard.



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170.6. Further, we would be inclined to believe that in a number of cases on the understanding of the law relating to the power of arrest as, in fact, evidenced by the facts of the present case, police officers would have made arrests in regard to offences under Chapter IV of the Act. Therefore, in regard to the power of arrest, we make it clear that our decision that police officers do not have power to arrest in respect of cognizable offences under Chapter IV of the C Act, will operate with effect from the date of this judgment.

170.7. We further direct that the Drugs Inspector, who carry out the arrest, must not only report the arrests, as provided in Section 58 CrPC, but also immediately report the arrests to their superior officers.”

4.2. He further submits that the Copyright Act applies only where the alleged infringement relates to original literary, dramatic, musical artistic works, cinematography films or sound recordings. Even as per the allegations, there is not even a whisper of any allegation to attract the offence under the Copyright Act. The entire allegation revolved about the counterfeit medicines which falls entirely outside the scope of the Copyright. The complaint itself is vague and there is no specific allegations. It doesn't provide any particulars whatsoever of the alleged counterfeit medicines manufactured in Puducherry based firms. The

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petitioners are only stockers and they have no manufacturing unit. That apart, the alleged drugs which were seized from the accused were subjected for analysis and it confirms the minimum required standard. Therefore, it cannot be termed as counterfeit or substandard drugs.

4.3. In support of his contention, he relied upon the judgment of the Hon'ble High Court of Punjab and Haryana reported in **2006 SCC OnLine P& H 1907** in the case of **Bikaner Steel Mills Vs. State of Punjab**, which held as follows:-

“6. The ratio of Piyara Singh (supra) is sufficient indication that in the trial of offence under Section 79 of the Trade and Merchandise Marks Act, it would be improper to use Section 420 IPC. Moreover, the allegations for committing offence under Section 420 IPC, as stated in the FIR, are vague in nature. No where, it is mentioned as to whether any private person had been cheated on account of the mis-representation allegedly made by the petitioner. As per Section 13 of the Copyright Act, copyright could subsist in original literary, dramatic, musical and artistic works, cinematograph films and sound record. There could be thus no copyright in the steel Bars produced by TATA TISCON by using TMT-Technology.



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7. *In view of the above, no offence under Section 420 IPC and also under Sections 63 and 64 of the Copyright Act was made out. The offence under Section 79 of the Trade and Merchandise Marks Act is non-cognizable in nature and no FIR could be registered. The Complainant will be at liberty to file a criminal complaint in the concerned Court, if so advised, so as to initiate criminal proceedings against the present petitioner.”*

4.4. He also relied upon the judgment of the Hon’ble High Court of Punjab and Haryana at Chandigarh reported in **2023 SCC OnLine P&H 286** in the case of **Deepak Vs. State of Haryana & anr.**, which held as follows:-

“11. The issue that arose in Gurmukh Singh v. State of Punjab, (2011) 18 RCR (Cri) 308 was whether using of trade mark of some other firm would attract the provisions of the Copy Right Act, 1957. The allegations in this case were that petitioners were using trade marks of some other firms on the bags of potatoes. During investigation, it was found that the petitioners were using false trade mark, thus, the offence under the Act, 1957 and Trade Mark Act was made out, upon which the challan was presented and the case was fixed for framing of charge. This Court quashed the FIR noticing that the



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provisions of Copy Right Act are attracted to original literary dramatic, musical and artistic works; cinematograph films; and sound recording and offence under Sections 78 and 79 of the Trade Mark and Merchandise Act was non-cognizable and could not be investigated by the Police. Further, that after coming into force of the Trade Mark Act, 1999, the complaint can be initiated by the Registrar and the raid could be conducted by an officer not below the rank of DSP.”

4.5. He further relied upon the judgment dated **07.06.2023**, passed by this Court in **Crl.O.P.No.6357 of 2021** in the case of **Chainsingh & anr Vs. State & anr.**, which held as follows:-

“6. This Court, on perusal of the impugned final report, finds that the allegation against the petitioners is that they were in possession of duplicate Reebok/Adidas Bags, Caps and Belts. The said allegation would not attract the offence under Section 63 of the Copyright Act, 1957. Section 63 of the Copyright Act, 1957 reads as follows:

"63. Offence of infringement of copyright or other rights conferred by this Act - Any person knowingly infringes or abets the infringement of

(a) the copyright in a work, or

(b) any other right conferred by this Act, [except



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the right conferred by section 534 – A],

[shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees:

Provided that [where the infringement has not been made for gain in the course of trade or business] the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.

Explanation - Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section."

Section 13 of the Copyrights Act, 1957 reads as follows :

“13. Works in which copyright subsists - (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,-

(a) original literary, dramatic, musical and artistic works,

(b) cinematograph films; and

(c) [sound recording].

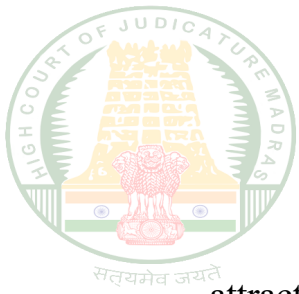


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7. From the above provisions, it is clear that unless the infringement relates to original literary, dramatic, musical and artistic works, cinematograph films and sound recordings, the provisions of the Act are not applicable. In the instant case, there are no such allegations. Hence, the offence under Section 63 of the Copyright Act, 1957 is not made. 8. As regards the offence under Section 420 IPC, there is nothing in the impugned final report to suggest that there was any deception practised upon any person. The possession of spurious goods is certainly not a legal act. However, in the absence of the ingredients to constitute the offence of cheating, one cannot be prosecuted merely because he was in possession of spurious goods. In order to constitute the offence of 420 IPC, there must be a deception practised on any person dishonestly or fraudulently. The impugned final report does not satisfy those necessary ingredients to attract the said offence of Section 420 IPC. The Judgment of the Madhya Pradesh High Court in *Kasim Ali vs. The State of Madhya Pradesh* dated 13.06.2016 in Misc. Criminal Case No.1362 of 2015 relied upon by the learned counsel for the petitioners squarely applies to the facts of the instant case. This Court is not in agreement with the view taken by the Delhi High Court in *Sunil Kumar Gupta and another vs. State* reported in 1998 (47) DRJ 84 for the aforesaid reasons.”



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4.6. The learned Senior Counsel further submitted that in order to

attract the offence under Section 318(4) of BNS, there must be inducement to deliver any property or valuable security. The accused never induced anybody with dishonest intention to deliver any property. The criminal wheel was sent in motion on presumption that counterfeit drugs were manufactured in Puducherry. Hence, he prayed to quash the present FIR.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. On perusal of the counter affidavit filed by the second respondent and on the submissions made by the learned counsel appearing for the respondents, it is revealed that the entire investigation in Crime No.27 of 2025 has been withdrawn from the file of the first respondent and transferred to the file of the third respondent. Now the investigation is pending on the file of the third respondent and the offences involved in Crime No.27 of 2025 are under Sections 276, 318(4), 61 of BNS and Section 27(d), 17B(b) of the DC Act. Both the offences are cognizable offences and the first respondent has empowered



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to register the case under Section 173 of the Bharatiya Nagarik Suraksha

Sanhita, 2023, (hereinafter referred to as “BNSS”) and also to investigate such offences. Though the FIR was registered for the offences falling under Chapter IV of the DC Act, and those offences should be investigated by the Drug Inspectors, there is no bar to the police officer from investigating the offences under other laws including the offences under the BNS. Nothing contained in Chapter IV of the DC Act that it shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter. The saving clause under Section 32(3) of the DC Act explicitly permits the prosecution under other laws.

7. The specific contention of the learned Senior Counsel appearing for petitioners is that, the provision under Sections 63 & 65 of the Copyright Act are not applicable to the present case. On perusal of the records, it is revealed that the second respondent owns a registered trademark for the drugs which were seized from the accused. The Copyright Act is a special statute that operates independently and it can be invoked concurrently and in parallel with remedies available under other laws. The doctrine of overlapping remedies permits the second



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respondent to seek redress under the Copyright Act, simultaneously with proceedings under other enactments, including the DC Act and BNS.

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8. Further the allegations are pertains to infringement of copyright subsisting in an original artistic work embodied in the label and packaging design of the pharmaceutical product manufactured and marketed by the second respondent. Since the second respondent is being a registered proprietor and lawful owner of subsisting copyright for its label and design, which is distinctive, unique and enjoys copyright protection under Section 13(1)(a) of the Copyright Act, 1957. The artistic work of the second respondent is protected under Section 2(c) r/w Section 13(1)(a) of the Copyright Act. Therefore, unauthorized reproduction, copying or imitating of the said artistic work done by the accused persons constitutes infringement of copyright under Section 51 of the Copyright Act and attracts penal provisions under Sections 63 & 65 thereof.

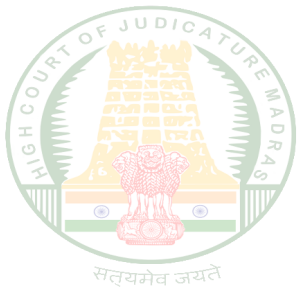
9. Further the counterfeit products are not only bearing the second respondent's registered trademark but also falsely represented the second respondent as the manufacturer. Therefore, by using the second respondent name and brand, the accused are deceiving the second



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respondent and its consumers, who purchase these products believing them to be manufactured by the genuine manufacturer. The seized counterfeit products even replicated the 3D multi colour designed security strip applied on original packages as evidenced by the Zircon report submitted to Drug Inspector, Agra. Therefore, the accused induced distributors, retailers and ultimately consumers to believe that the counterfeit medicines were genuine products as manufactured by the second respondent. Hence, it constitutes dishonest inducement to deliver property by way of monetary benefit to the accused.

10. That apart, the second respondent received so many complaints from aggrieved patients and consumers who were supplied with counterfeit products. On verification of the product samples and also on the report from the laboratory, it confirms the spurious nature of the products. Hence, it establishes that multiple identifiable persons have been deceived and defrauded thereby causing wrongful loss to the second respondent. Therefore, it constitutes the offence under Section 318(4) of BNS and hence the judgment relied upon by the learned Senior Counsel appearing for the petitioners are not helpful to the case on hand.



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11. Though already three cases were registered, the present FIR was not registered for the same occurrence. It was registered based on the seizure made by the first respondent on counterfeit Montek LC batches and also discovery of manufacturing and storage facilities in Puducherry operated by the second accused. Further the documents supplied by the first accused revealed the connection with the second accused and over scan verification of the unique QR codes sized from Puducherry and seizure of the same batch counterfeit products from Agra, manipulation of the E-way bills and suspected fake purchase invoices of product Montek LC by the accused persons. Therefore, the present FIR is not registered for the very same set of allegations registered in other FIRs.

12. Further on perusal of the First Information Report, it is revealed that there are specific allegations as against the petitioners to attract the offence, which has to be investigated in depth. Further the FIR is not an encyclopedia and it need not contain all facts and it cannot be quashed in the threshold. This Court finds that the FIR discloses prima facie commission of cognizable offence and as such this Court cannot interfere with the investigation. The investigating machinery has to step



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in to investigate, grab and unearth the crime in accordance with the procedures prescribed in the Code.

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13. In this regard, it is relevant to rely upon the judgment passed by the Hon'ble Supreme Court of India reported in **2019 (14) SCC 350** in the case of ***Sau. Kamal Shivaji Pokarnekar vs. The State of Maharashtra & ors., (Crl.A.No.255 of 2019 dated 12.02.2019)*** which held that the learned Magistrate while taking cognizance and summoning, is required to apply his judicial mind only with the view to taking cognizance of the offence whether a prima facie case has been made out for summoning the accused person. The learned Magistrate is not required to evaluate the merits of the materials or evidence in support of the complaint, because the Magistrate must not undertake the exercise to find out whether the materials would lead to conviction or not. Only in a case where the complaint does not disclose any offence or is frivolous, vexatious or oppressive, the complaint/FIR can be taken for consideration for quashment. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by Magistrate, it can be considered for quashment. Therefore, it is not necessary that a meticulous analysis of the case should be done before the trial to find out whether the



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case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification to interfere. At the initial stage of issuance of process, it is no open to the Court to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Therefore, the criminal complaint cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted.

14. Further the Hon'ble Supreme Court of India issued directions in the judgment reported in **2021 SCC Online SC 315** in the case of ***M/s.Neeharika Infrastructure Pvt. Ltd., Vs. State of Maharashtra & ors.***, as follows :-

“23.

vi) *Criminal proceedings ought not to be scuttled at the initial stage;*

vii) *Quashing of a complaint/FIR should be an exception rather than an ordinary rule;*



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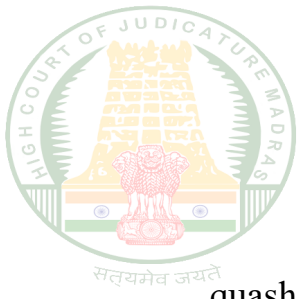
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.....

xii) *The first information report is not an encyclopaedia which must disclose all facts and details relating to the offence reported. Therefore, when the investigation by the police is in progress, the court should not go into the merits of the allegations in the FIR. Police must be permitted to complete the investigation. It would be premature to pronounce the conclusion based on hazy facts that the complaint/FIR does not deserve to be investigated or that it amounts to abuse of process of law. After investigation, if the investigating officer finds that there is no substance in the application made by the complainant, the investigating officer may file an appropriate report/summary before the learned Magistrate which may be considered by the learned Magistrate in accordance with the known procedure;*

.....

xv) *When a prayer for quashing the FIR is made by the alleged accused and the court when it exercises the power under Section 482 Cr.P.C., only has to consider whether the allegations in the FIR disclose commission of a cognizable offence or not. The court is not required to consider on merits whether or not the merits of the allegations make out a cognizable offence and the court has to permit the investigating agency/police to investigate the allegations in the FIR;”*



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15. In view of the above discussions, this Court is not inclined to

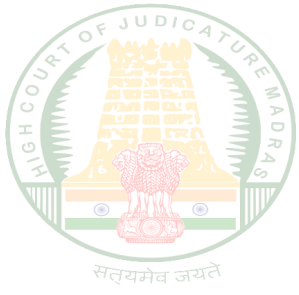
quash the First Information Report. However, considering the facts and circumstances of the case, the third respondent is directed to complete the investigation in Crime No.27 of 2025 and file a final report within a period of twelve weeks from the date of receipt of copy of this Order, before the jurisdictional Magistrate, if not already filed.

16. Accordingly, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

21.07.2026

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

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G.K.ILANTHIRAIYAN. J,

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To

1. The Inspector of Police,
State of Puducherry
CBCID Police Station,
Puducherry.

2. The Central Bureau of Investigation,
Plot No.5-B, CGO Complex,
Lodhi Road,
New Delhi-110003.

3. The Public Prosecutor,
Madras High Court,
Chennai.

Order in
Crl.O.P.No.35020 of 2025
and Crl.M.P.Nos.24577 of 2025 & 3904 of 2026

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