



Crl.OP(MD)No.308 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.308 of 2026

Durai Mahalingam

... Petitioner/Accused No.

Vs.

1. The State of Tamilnadu

Rep. by. the Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.

Crime No. 127/2023

.... Respondent / Complainant

2. Ramamoorthy

.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and to quash the final report in CC No.646 of 2025 in Crime No.127 of 2023 pending on the file of the learned Judicial Magistrate No.I, Virudhunagar in so far as the petitioner/Accused No.10 alone is concerned.

For Petitioner : Mr.G.Prabhu Rajadurai,

For Mr.R.Rajmohan

For R-1

: Mr.S.Ravi,
Additional Public Prosecutor



WEB COPY



Crl.OP(MD)No.308 of 2026

For R-2 : Mr.M.Kannan

ORDER

Prologue:

The present Criminal Original Petition presents before this Court an issue of considerable public importance touching upon the integrity of public records, sanctity of registration machinery, preservation of water bodies, and the extent of criminal accountability of statutory registering authorities when allegations of deliberate facilitation of fraudulent conveyances arise.

2. The petitioner, who served as Joint-II Sub Registrar, Virudhunagar, seeks quashment of the criminal prosecution initiated against him on the premise that a Sub Registrar merely performs a ministerial act while registering documents and cannot be criminally prosecuted for title disputes arising between private parties. The prosecution and the *de facto* complainant, however, project a far more serious narrative, namely, that the petitioner consciously facilitated registration of forged and manipulated documents relating not only to a disputed private property but also to an alleged



WEB COPY

Government "Oorani" water body, in deliberate violation of statutory mandates, Government notifications and registration safeguards.

3. The case therefore transcends an ordinary civil dispute over title. The allegations strike at the institutional integrity of public administration and the statutory duties of registering officers functioning under the Registration Act, 1908.

4. In such circumstances, this Court is called upon to determine whether the prosecution against the petitioner is so inherently absurd, legally untenable, or devoid of foundational materials so as to warrant exercise of inherent powers under Section 528 BNSS corresponding to Section 482 Cr.P.C.

Case of the prosecution:

5. The prosecution case, as emerging from the final report and materials collected during investigation, is that the petitioner herein, while serving as Joint-II Sub Registrar, Virudhunagar, registered a Gift Deed dated 10.02.2017 bearing Document No.356 of 2017 executed by A-1 in favour of A-2 to A-4 and simultaneously



Crl.OP(MD)No.308 of 2026

WEB COPY

registered a Sale Agreement dated 10.02.2017 bearing Document No. 361 of 2017 executed by A-2 to A-4 in favour of A-6 and A-7.

6. According to the prosecution, Item No.1 of the property covered under Document No.356 of 2017 pertains to T.S.No.43 classified as “Government Poromboke Oorani”, namely a public water body. Item No.2 allegedly pertains to a private property claimed by the wife of the second respondent/ *de facto* complainant.

7. It is alleged that the accused persons, in conspiracy with one another, fabricated and manipulated revenue records, Town Survey Land Register extracts and Field Measurement Book sketches for the purpose of creating fraudulent title over the properties and thereafter secured registration of the impugned documents through the petitioner/Sub Registrar.

8. The prosecution further alleges that the petitioner deliberately relied upon manual Town Survey Register extracts despite a Gazette Notification issued by the District Collector, Virudhunagar dated 25.11.2003 published on 05.01.2004



Crl.OP(MD)No.308 of 2026

mandating reliance only upon computerized land records under the
WEB COPY
Tamil Nilam Scheme.

9. The prosecution also alleges that the petitioner failed to verify crucial encumbrance records from the year 1932 onwards, ignored glaring discrepancies in survey numbers, accepted manipulated Field Measurement Book sketches containing overwriting and alterations, and consciously facilitated registration of documents involving Government water body lands prohibited under Section 22-A of the Registration Act.

10. According to the prosecution, the Town Survey Register extracts annexed with the impugned deeds were themselves forged and fabricated. The statement of LW21/Deputy Tahsildar allegedly reveals that no municipal official by name “Arumugam Sub Inspector”, who purportedly issued the records, ever existed during the relevant period.

11. The prosecution would therefore contend that the petitioner was not a passive registering authority but an active



WEB COPY

conspirator who knowingly facilitated land grabbing operations through abuse of official position.

12. On completion of investigation, final report came to be filed against several accused persons including the petitioner/A-10 for offences under Sections 34, 120-B, 447, 465, 468 and 471 IPC corresponding to Sections 3(5), 61(2), 329(3), 336(2), 336(3) and 340(2) of the Bharatiya Nyaya Sanhita.

Grounds for quash:

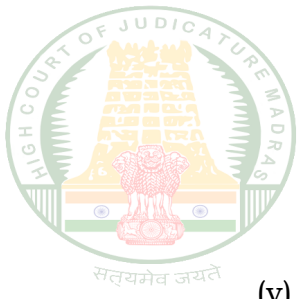
13. The petitioner seeks quashment mainly on the following grounds:

(i) The petitioner merely discharged statutory duties as Sub Registrar and had no role in any alleged conspiracy;

(ii) A Sub Registrar cannot adjudicate title disputes and performs only ministerial functions;

(iii) No overt act or *mens rea* is attributed against the petitioner except registration of documents;

(iv) Rule 55 of the Registration Rules, 1908, does not require the Sub Registrar to conduct roving enquiry into ownership;



WEB COPY

(v) The allegations are vague and unsupported by legally admissible materials;

(vi) Section 86 of the Registration Act, 1908, protects actions bona fide performed by registering officers;

(vii) The alleged classification of property as water body emerged only subsequently based on Tahsildar report dated 18.02.2022;

(viii) Civil litigation concerning title is already pending and therefore criminal prosecution amounts to abuse of process;

(ix) No ingredients of forgery offences are attracted against the petitioner;

(x) The prosecution is hit by the principles laid down in ***State of Haryana v. Bhajan Lal***¹.

Arguments on either side:

14. The learned counsel appearing for the petitioner submitted that the petitioner, being a statutory registering authority, cannot be prosecuted merely because a document subsequently becomes subject matter of civil or criminal dispute. It was contended that the

¹ 1992 Supp(1) SCC 335



Crl.OP(MD)No.308 of 2026

WEB COPY

Registration Department does not adjudicate title and the function of the Sub Registrar is only administrative and ministerial in nature.

15. The learned counsel would further submit that the petitioner had acted strictly in accordance with the Registration Act and Rules, 1908, and there existed no material whatsoever to infer criminal conspiracy. It was further argued that the prosecution seeks to criminalise performance of official duties and thereby expose registering officers to unwarranted prosecutions.

16. The learned counsel submitted that the FIR, final report and witness statements do not contain any direct allegation establishing *mens rea* or fraudulent intention on the part of the petitioner. It was also argued that Section 86 of the Registration Act, 1908, grants statutory protection to registering officers acting in good faith.

17. The learned counsel further contended that the alleged classification of property as Government water body emerged only subsequently and therefore no criminal liability could retrospectively

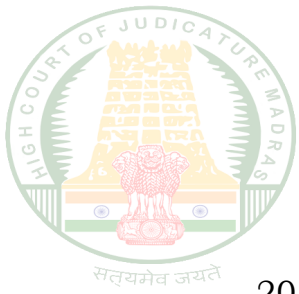


WEB COPY

be fastened upon the petitioner. The learned counsel would submit that the dispute is essentially civil in nature and continuation of criminal prosecution would amount to abuse of process of law.

18. Per contra, the learned Government Advocate (Criminal Side) and the learned counsel appearing for the second respondent/*de facto* complainant vehemently opposed the petition. They would submit that the petitioner cannot seek shelter under the guise of ministerial functions when the prosecution materials disclose deliberate dereliction, conscious suppression and active facilitation of fraudulent registration.

19. It was argued that Section 22-A of the Registration Act, 1908, imposes mandatory duty upon the registering authority to refuse registration of Government lands and public properties. The respondents further submitted that the petitioner deliberately relied upon manual records prohibited under Government notification and ignored computerized records which would have revealed the true classification of the property as Government Oorani.

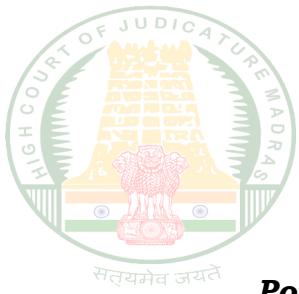


WEB COPY

20. It was contended that the Field Measurement Book sketches contained obvious overwriting and alterations which the petitioner consciously ignored. The learned counsel for the second respondent placed heavy reliance upon the judgment of the Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Ltd. v. S.P. Velayutham***² to contend that registering officers cannot claim immunity by projecting themselves as mere mechanical functionaries.

21. It was further argued that conspiracy is rarely proved through direct evidence and may legitimately be inferred from conduct, omissions and surrounding circumstances. The learned counsel would further submit that the petitioner's conduct in bypassing mandatory scrutiny, accepting suspicious records and facilitating simultaneous conveyances involving valuable public and private lands *prima facie* discloses criminal conspiracy warranting full-fledged trial.

² 2022 LiveLaw (SC) 445



WEB COPY

Point for consideration

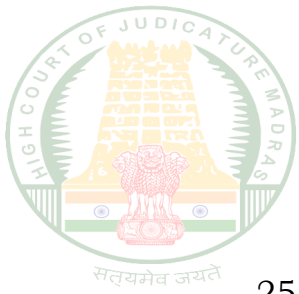
22. The point arising for consideration is whether the allegations and materials available in the final report are so inherently improbable, legally unsustainable, or devoid of foundational ingredients as to warrant exercise of inherent jurisdiction under Section 528 BNSS for quashing the criminal proceedings against the petitioner/A-10?

Analysis:

23. The inherent jurisdiction under Section 528 BNSS corresponding to Section 482 Cr.P.C. is extraordinary in nature and must be exercised sparingly. The principles governing quash jurisdiction are well settled in **State of Haryana v. Bhajan Lal**³. At the stage of quash, the Court is not expected to conduct meticulous appreciation of evidence or adjudicate disputed factual issues.

24. If the materials collected during investigation *prima facie* disclose ingredients of offences, criminal prosecution cannot be interdicted merely because the accused offers plausible explanations.

³ 1992 Supp(1) SCC 335



WEB COPY

25. The principal defence raised by the petitioner is that the role of a Sub Registrar is merely ministerial. This contention cannot be accepted in absolute terms.

26. The Hon'ble Supreme Court in ***Asset Reconstruction Company (India) Ltd. v. S.P. Velayutham***⁴ categorically observed that if registering officers are treated as performing purely mechanical functions without independent application of mind, even Government properties may be fraudulently conveyed.

27. The statutory scheme under Section 22-A of the Registration Act, 1908, specifically obligates refusal of registration relating to Government properties and prohibited categories of land. Therefore, the petitioner cannot seek blanket immunity merely by asserting that he acted mechanically.

28. The prosecution materials disclose several circumstances requiring adjudication during trial. The prosecution alleges that the petitioner relied upon manual Town Survey Register extracts despite

⁴ Supra 2



WEB COPY
records.

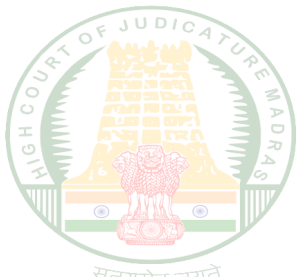
Government notification mandating reliance only upon computerized

29. The prosecution further alleges that the manual records themselves were forged and issued by non-existent officials. The prosecution also alleges existence of visible overwriting and alterations in the Field Measurement Book sketches.

30. Whether the petitioner consciously ignored such discrepancies, whether such omissions were innocent or deliberate, and whether such conduct amounts to conspiracy are all matters requiring evidentiary adjudication. These issues cannot be conclusively determined in proceedings under Section 528 BNSS.

31. The petitioner repeatedly contends absence of direct evidence. However, criminal conspiracy is ordinarily hatched in secrecy. The Hon'ble Supreme Court in **Shivnarayan Laxminarayan Joshi v. State of Maharashtra**⁵ held that conspiracy may legitimately be inferred from acts, omissions and surrounding circumstances. Similarly, in **Yash Pal Mittal v. State**

5 (1980) 2 SCC 465



WEB COPY

of Punjab⁶ it was held that every conspirator need not participate at every stage.

32. The prosecution materials in the present case, including alleged violation of mandatory procedures, suspicious revenue extracts, simultaneous transactions and disputed public property involvement, cannot be brushed aside as wholly absurd or impossible.

33. Merely because civil proceedings are pending, criminal prosecution does not automatically become unsustainable. The Hon'ble Supreme Court in ***K. Jagadish v. Udaya Kumar G.S.***⁷ categorically held that availability of civil remedy is no ground to quash criminal proceedings.

34. In the present case, allegations extend beyond private title dispute and encompass alleged fraudulent registration involving public water body lands. Therefore, the civil nature of certain

6 (1997) 4 SCC 540

7 (2020) 14 SCC 552



disputes does not eclipse the criminal dimensions alleged by the
WEB COPY
prosecution.

prosecution.

35. The protection under Section 86 of the Registration Act, 1908, is not absolute. Such protection operates only where actions are performed bona fide and in good faith. Whether the petitioner acted bona fide or consciously facilitated fraudulent registration is itself the core issue requiring trial. Such disputed factual determination cannot be conclusively adjudicated in quash proceedings.

36. This Court is unable to hold that the prosecution is manifestly attended with mala fides or that the allegations are inherently improbable. The materials collected during investigation disclose *prima facie* circumstances warranting judicial scrutiny during trial.

37. At this stage, this Court cannot conduct a mini trial or enter upon appreciation of disputed evidence. The petitioner is at



WEB COPY

liberty to establish his innocence before the Trial Court during full-fledged trial.

Epilogue:

38. Public confidence in the sanctity of registration machinery forms one of the foundational pillars of civil administration. Registration offices are not intended to become gateways through which forged claims, manipulated records and encroachments upon public properties obtain legal camouflage.

39. Equally, criminal prosecution of public servants cannot be casually sustained in absence of foundational materials. The balance between statutory protection and public accountability must therefore be carefully preserved.

40. In the present case, this Court finds that the prosecution materials disclose sufficient *prima facie* circumstances warranting trial. The allegations cannot be dismissed as inherently absurd or legally untenable at this preliminary stage.



Crl.OP(MD)No.308 of 2026

WEB COPY

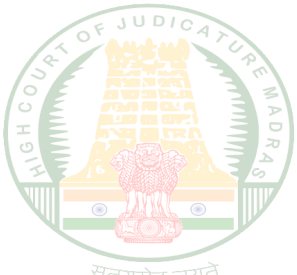
41. The petitioner seeks an adjudication upon disputed questions of fact which fall squarely within the province of the Trial Court and not within the limited inherent jurisdiction under Section 528 BNSS.

42. In fine, this Criminal Original Petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

43. However, considering the official status of the petitioner and the nature of allegations, the personal appearance of the petitioner before the Trial Court shall stand dispensed with except on the following occasions:

- (i) furnishing copies;
- (ii) framing of charges;
- (iii) questioning under Section 351 BNSS;
- (iv) pronouncement of judgment; and
- (v) whenever specifically required by the Trial Court.

44. The Trial Court is directed to proceed with the case uninfluenced by any observations made in this order, which are



Crl.OP(MD)No.308 of 2026

confined solely for the purpose of deciding the present quash
petition.

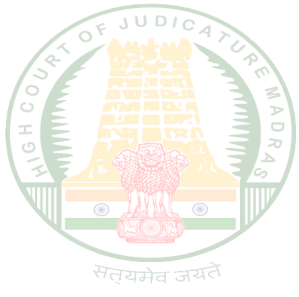
WEB COPY

01.06.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

- 1.The Judicial Magistrate No.I,
Virudhunagar.
- 2.The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.OP(MD)No.308 of 2026

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)No.308 of 2026

01.06.2026