



Crl.OP(MD)No.19248 of 2024

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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.19248 of 2024

1.Karthick Ambasankar

2. Sreedharan

3. Nagalingam

4. Suyambulingam

... Petitioner/Accused No.1 to 4

Vs.

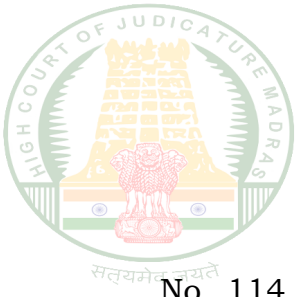
1. The State of Tamil Nadu,
Rep . by the Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
Cr.No.114 of 2023.

.... Respondents / Complainant

2. Sukumar

.... Respondent /
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to S.T.C.No.340 of 2024 on the file of the learned Judicial Magistrate, Eraniel, in Crime



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No. 114 of 2023 dated 15.08.2023 on the file of the 1st respondent

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police and quash the same.

For Petitioners : Mr.K.Suyambulingabharathi

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)

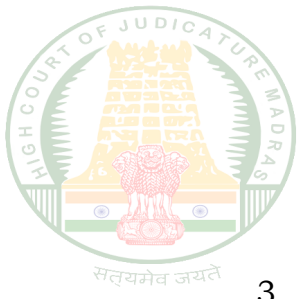
For R-2 : Mr.R.Rossel Raj

ORDER

The present Criminal Original Petition seeks quashment of the proceedings in S.T.C.No.340 of 2024 on the file of the learned Judicial Magistrate, Eraniel, arising out of Crime No.114 of 2023 registered by the first respondent police for the offences under Sections 294(b), 427 and 506(i) IPC.

Case of the Prosecution:

2. The case of the prosecution is that the second respondent/*de facto* complainant is the absolute owner and is in possession and enjoyment of 13 cents of land comprised in Survey No.60/11 situated at Vembanoor Village, Kanyakumari District.

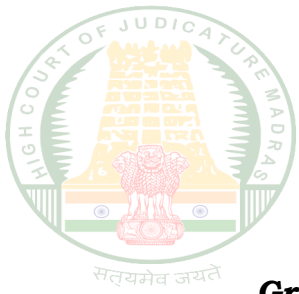


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3. According to the prosecution, on account of a dispute relating to the said property, the petitioners/A-1 to A-4 are alleged to have entered upon the disputed portion, caused damage to the boundary/compound structure of the *de facto* complainant's property for the purpose of forming or facilitating a road, and thereby caused damage.

4. It is further alleged that when the *de facto* complainant questioned the petitioners regarding the said act, the petitioners abused him in filthy language, damaged the boundary structure and criminally intimidated him with dire consequences. On the basis of the complaint, the first respondent registered FIR in Crime No.114 of 2023 dated 15.08.2023 for the offences under Sections 294(b), 427 and 506(i) IPC. After investigation, final report was filed and the same was taken cognizance as S.T.C.No.340 of 2024 by the learned Judicial Magistrate, Eraniel.



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Grounds for Quash:

5. The learned counsel for the petitioners submitted that the present prosecution is nothing but a counter-blast to the complaint lodged by the first petitioner on 14.08.2023 at about 18.30 hours against the *de facto* complainant and his relatives, for which CSR No. 422 of 2023 was issued. It was further contended that the final report does not disclose any specific overt act as against each of the petitioners and that all the accused have been mechanically roped in.

6. As regards Section 427 IPC, it was submitted that though the prosecution alleges damage, there is no valuation certificate or competent material to establish the alleged damage. Therefore, the offence of mischief causing damage is not made out.

7. As regards Section 294(b) IPC, it was contended that the alleged abusive words do not satisfy the statutory requirement of obscenity and that there is no material to show annoyance to the public.



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8. As regards Section 506(i) IPC, it was submitted that the alleged threat was not real, immediate or capable of causing alarm. The complaint was lodged after nearly 12 hours and therefore the allegation of criminal intimidation is artificial and exaggerated.

Arguments on either side:

9. The learned counsel for the petitioners reiterated that the prosecution has been initiated only to give a criminal colour to a civil/property dispute. According to him, the materials collected during investigation do not disclose the essential ingredients of Sections 294(b), 427 or 506(i) IPC. He would submit that continuation of the prosecution would amount to abuse of process of Court.

10. Per contra, the learned counsel for the second respondent submitted that the *de facto* complainant is the lawful owner of the property and that the petitioners, without permission, entered upon the property and damaged the boundary structure. He submitted



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that the occurrence is not a mere civil dispute, but involves abusive words, damage to property and criminal intimidation.

11. The learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the final report is supported by witness statements and materials collected during investigation. He submitted that the abusive words have been stated in the prosecution materials, that the damage to the boundary has been noticed, and that the threat with an iron rod attracts Section 506(i) IPC.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

13. The point that arises for consideration is whether the proceedings in S.T.C.No.340 of 2024 on the file of the learned Judicial Magistrate, Eraniel, arising out of Crime No.114 of 2023 for the offences under Sections 294(b), 427 and 506(i) IPC, are liable to



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be quashed in exercise of the inherent jurisdiction of this Court under Section 528 BNSS?

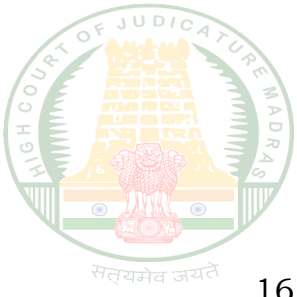
Governing Principles:

14. The law governing quashment of criminal proceedings is well settled. In ***State of Haryana v. Bhajan Lal***¹, the Hon'ble Supreme Court laid down illustrative categories where criminal proceedings may be quashed, including cases where the allegations do not disclose any offence or where the proceedings are manifestly mala fide.

15. In ***R.P. Kapur v. State of Punjab***², it was held that inherent power may be exercised where there is a legal bar to the proceedings or where the allegations, even if taken at their face value, do not constitute the offence alleged.

1 1992 Supp(1) SCC 335

2 AIR 1960 SC 866



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16. In ***State of Andhra Pradesh v. Golconda Linga Swamy***³, the Hon'ble Supreme Court cautioned that the High Court, while exercising inherent jurisdiction, should not embark upon an enquiry as to the reliability or genuineness of allegations.

17. In ***Neeharika Infrastructure Pvt. Ltd. v. State of Maharashtra***⁴, the Hon'ble Supreme Court reiterated that criminal proceedings should not be stifled at the threshold when the allegations disclose commission of an offence and require trial.

18. Thus, the jurisdiction under Section 528 BNSS is to be exercised sparingly, with circumspection, and only in cases where continuation of prosecution would be a clear abuse of process.

Analysis:

19. The present case is not at the FIR stage alone. Investigation has been completed. The police have filed final report.

³ (2004) 6 SCC 522

⁴ (2021) 19 SCC 401



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The learned Judicial Magistrate, Eraniel, has taken cognizance and the case is pending as S.T.C.No.340 of 2024.

20. In FIR quash matters, the Court examines whether the allegations in the complaint/FIR, taken at their face value, disclose a cognizable offence. In final report quash matters, the scrutiny is slightly broader, inasmuch as the Court may look into the final report, statements of witnesses and accompanying materials. However, even at that stage, the Court cannot conduct a mini trial or decide disputed questions of fact.

21. The petitioners rely upon their counter-complaint and the alleged prior CSR. The existence of a counter-complaint may be relevant during trial. It may assist the defence in suggesting motive for false implication. However, it cannot, by itself, demolish the prosecution case at the threshold.

22. Section 294(b) IPC requires that the accused must sing, recite or utter obscene words in or near any public place, causing



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annoyance to others. The contention of the petitioners is that no qualifying obscene words have been clearly made out and that there is no material to establish annoyance to the public.

23. The prosecution, on the other hand, asserts that the abusive words have been stated in the prosecution materials. Whether the words attributed to the accused are obscene within the meaning of Section 294(b) IPC and whether such words caused annoyance are matters which depend upon the evidence of witnesses and the circumstances of the occurrence.

24. At this stage, this Court cannot dissect the language used, test the reaction of the persons present, and conclude that the offence under Section 294(b) IPC is wholly absent. Since the final report alleges abuse in filthy language during the occurrence, the said charge cannot be quashed at the threshold.

25. Section 427 IPC deals with mischief causing loss or damage to the amount prescribed under the provision. The essential



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ingredients are commission of mischief and resultant loss or damage.

The petitioners submit that there is no valuation certificate and therefore Section 427 IPC is not attracted.

26. This Court is unable to accept the said contention at this stage. A valuation certificate may be a piece of evidence. Its absence, by itself, cannot be treated as fatal at the stage of quashment, particularly when the allegation is that the boundary structure of the *de facto* complainant's property was damaged.

27. Whether the damage was actually caused, whether the damage was caused by the petitioners, whether the value of damage is correctly assessed, and whether the prosecution can establish the same by admissible evidence are matters for trial. Therefore, the offence under Section 427 IPC cannot be held to be inherently improbable or legally unsustainable at this threshold stage.

28. Section 506(i) IPC punishes criminal intimidation. The essence of the offence is threat with intent to cause alarm to the



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person threatened or to compel him to do or omit any act. The petitioners contend that the complaint was lodged after 12 hours and therefore the alleged threat could not have been real.

29. Delay in lodging the complaint may be a circumstance available to the defence. However, delay by itself does not erase the allegation of threat, particularly when the prosecution alleges that the petitioners threatened the *de facto* complainant with dire consequences and that one of the accused was armed with an iron rod.

30. Whether the alleged threat caused alarm, whether the complainant's version is exaggerated, and whether the threat was real or casual are matters which require appreciation of oral evidence. Such appreciation cannot be undertaken in a petition under Section 528 BNSS. Therefore, the charge under Section 506(i) IPC also cannot be quashed at this stage.

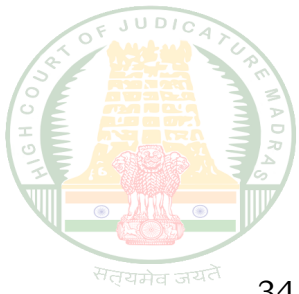


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31. The petitioners contend that no specific overt act is attributed to each accused. However, the prosecution case is one of a common occurrence involving all the petitioners. At the stage of quashment, it is sufficient if the final report discloses the participation of the accused in the occurrence and the basic ingredients of the alleged offences.

32. Whether all the petitioners actively participated, whether some of them were merely present, and whether individual liability can be fastened upon each of them are matters to be considered by the trial Court upon evidence.

33. It is true that the dispute appears to have a property background. However, the mere existence of a civil dispute does not bar criminal prosecution if the allegations disclose criminal offences. If, in the course of a property dispute, the accused are alleged to have abused, damaged property and criminally intimidated the complainant, the proceedings cannot be quashed solely on the ground that the parties are also involved in a property dispute.



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34. The defence of counter-blast, prior complaint and civil dispute may be urged before the trial Court. Those contentions cannot be converted into grounds for quashment when the prosecution materials disclose triable issues.

35. On a careful consideration of the FIR, final report, rival submissions and materials placed before this Court, this Court is of the view that the allegations, taken at their face value, disclose the basic ingredients of Sections 294(b), 427 and 506(i) IPC.

36. This is not a case where the complaint is absurd on its face. This is not a case where there is a legal bar to prosecution. This is not a case where the final report, even if accepted in entirety, fails to disclose any offence. The petitioners seek adjudication of disputed facts under the guise of quashment. Such an exercise is impermissible under Section 528 BNSS.

37. In the present case, the petitioners may have a defence that the prosecution is a counter-blast and that the dispute is



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essentially civil in nature. Such defence may be substantial or even ultimately acceptable. But the stage for such adjudication is trial, not quashment.

38. In the result, this Criminal Original Petition stands dismissed. The learned Judicial Magistrate, Eraniel, shall proceed with S.T.C.No.340 of 2024 in accordance with law, uninfluenced by any of the observations made in this order, which are confined only to the consideration of this petition under Section 528 BNSS.

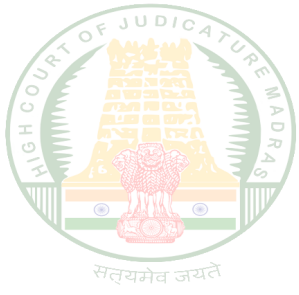
01.06.2026

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

To

1. The Inspector of Police,
Vellichanthai Police Station,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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L.VICTORIA GOWRI, J.

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