

Crl.OP(MD)No.21404 of 2025

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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.21404 of 2025

and

Crl.M.P.(MD)No.18399 of 2025

1. Subramani

2. Logeswaran

... Petitioners/Accused

Vs.

The State of Tamilnadu,
Rep. by the Inspector of Police,
Chithamanipatty Police Station,
Karur District.
Crime No.276/2020.

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the final report in S.C. No. 9 of 2025 on the file of the Learned Principal District Court, Karur District and to Quash the same as against the petitioners /A1 and A2 are concerned.

For Petitioners : Mr. S.Nagarajan

For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)



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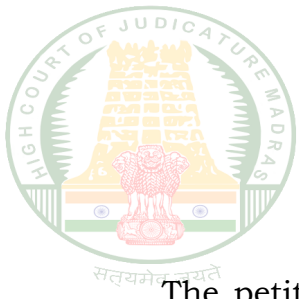
ORDER

Prologue:

The present Criminal Original Petition invokes the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding to Section 482 Cr.P.C., seeking quashment of the criminal proceedings in S.C.No.9 of 2025 pending on the file of the learned Principal District Court, Karur District.

2. The petitioners, arrayed as A-1 and A-2, seek quashment of the prosecution launched for the alleged offences under Sections 273, 328 and 285 IPC corresponding to Sections 275, 123 and 287 of the Bharatiya Nyaya Sanhita, 2023, Section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003 and Section 9(B)(1)(b) of the Explosives Act, 1884.

3. The case presents an intersection between public health concerns arising out of alleged possession of prohibited tobacco products and issues relating to storage of explosives and fireworks.



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The petitioners seek to project the prosecution as legally untenable and procedurally defective, whereas the prosecution asserts that the allegations disclose grave public safety concerns warranting a full-fledged trial.

Case of the prosecution:

4. The prosecution case, in brief, is that on 05.10.2020 at about 3.30 p.m., the respondent police, along with the Sub-Inspector of Police and police personnel attached to the station, were on patrol duty covering Chinthamanipatti, Mylampatti and Tharagampatti areas. According to the prosecution, the police party received secret information that the first petitioner was illegally storing prohibited tobacco products and explosive materials in his farmhouse situated at Servaikaranoor Village.

5. Acting upon such information, the respondent police conducted a search in the farmhouse belonging to the first petitioner and allegedly recovered the following articles:

- (i) 50 flower pots in 78 bundles totalling 3900 pieces;
- (ii) 10 jute crackers containing 2500 crackers;



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- (iii) single jute crackers containing 10,000 crackers;
- (iv) 78 big paper crackers;
- (v) 60 small paper crackers;
- (vi) 10 jute big crackers;
- (vii) 168 kilograms of Vimal betel nut products;
- (viii) Hans tobacco products in 25 bags; and
- (ix) loose Hans tobacco products weighing 107 kilograms.

6. The prosecution alleges that the petitioners were found to be in illegal possession of inflammable explosive substances and prohibited tobacco products without lawful authority and in violation of statutory provisions. Based upon the alleged recovery, the respondent police registered Crime No.276 of 2020 for offences under Sections 273, 328 and 285 IPC and Section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003 and Section 9(B)(1)(b) of the Explosives Act, 1884.

7. The petitioners were arrested and later released on bail. Upon completion of investigation, a final report came to be filed before the learned Judicial Magistrate No.I, Kuzhithalai, and the



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same was thereafter committed to the learned Principal District Court, Karur District, where it has been taken on file in S.C.No.9 of 2025.

Grounds for quash:

8. The petitioners challenge the prosecution principally on the following grounds:

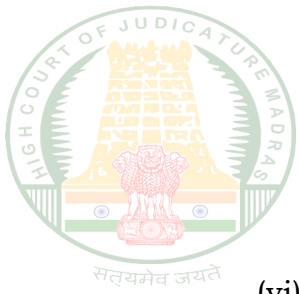
(i) that the respondent police, who acted as the informant, had also undertaken investigation, thereby vitiating the entire prosecution;

(ii) that the first petitioner possessed a valid LE-5 licence for storage and sale of fireworks and crackers;

(iii) that the seized materials were not subjected to forensic or chemical examination;

(iv) that the alleged tobacco products were not scientifically tested to establish that they were prohibited substances;

(v) that Section 328 IPC is wholly inapplicable in the absence of administration of poisonous or intoxicating substances to any person;



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(vi) that Section 24(1) of the Cigarettes and Other Tobacco Products Act, 2003, is not attracted in the absence of allegations relating to sale to minors or sale near educational institutions;

(vii) that the second petitioner has been falsely implicated without any overt act or material; and

(viii) that the final report has been filed belatedly and is therefore barred by limitation.

Arguments on either side:

9. The learned counsel for the petitioners submitted that, insofar as cigarette and tobacco products are concerned, the same were not sent for chemical analysis. By drawing the attention of this Court to paragraph No.6 of the order of this court in Crl.O.P.(MD)No. 19243 of 2024 dated 17.12.2025, the learned counsel contended that, in the absence of any analyst report, the invocation of Section 328 IPC is unsustainable.

10. The learned counsel further read Section 328 IPC and submitted that the essential ingredients required for attracting the offence are not made out in the present case. It was also contended



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that only police officials have been cited as witnesses in respect of the alleged seizure.

11. The learned counsel for the petitioners further submitted that the first petitioner possessed a valid licence for storage of explosives. It was submitted that the licence had been renewed, and that the licence had in fact been granted. It was specifically contended that the licence was for storage of explosives.

12. The learned counsel further submitted that the licence had subsequently been extended. It was also pointed out that the charge sheet came to be filed only in the year 2024. The learned counsel additionally submitted that the allegation pertains only to packets of paan masala and that the prosecution has not properly explained the basis for invoking the alleged offences.

13. It was further contended that Section 273 IPC would not apply in the absence of any allegation relating to sale of noxious food or drink. Equally, Section 328 IPC would not apply unless there is an allegation of administering poisonous or intoxicating substances to



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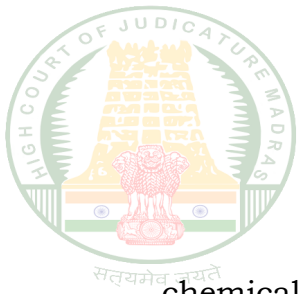
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another person with intention to cause hurt. The learned counsel therefore sought quashment of the entire proceedings.

14. Per contra, the learned Government Advocate submitted that chemical analysis is not necessary for the purpose of attracting Section 328 IPC. According to the learned Government Advocate, the petitioners' counsel had failed to bring to the notice of this Court the true scope and ingredients of Section 328 IPC.

15. The learned Government Advocate read Section 328 IPC and submitted that "hurt" is the most important ingredient under the provision. It was contended that the use of tobacco products would definitely cause hurt to any individual. The learned Government Advocate further submitted that even the Central Government regularly issues advertisements in cinema theatres warning that the consumption of gutka and tobacco products causes cancer and other dangerous diseases.

16. The learned Government Advocate therefore contended that Section 328 IPC would squarely apply even in the absence of any



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chemical analysis report. It was further argued that gutka would fall within the category of intoxicating substances.

17. By referring to the seizure mahazar, the learned Government Advocate submitted that explosives had also been seized in the present case. It was argued that the seizure was not effected solely in the presence of police officials, but that two independent witnesses from the locality had been called and that the seizure was conducted in their presence.

18. The learned Government Advocate further submitted that, though the petitioner may possess a licence, the explosives ought to have been stored only in a licensed premises. In the present case, according to the prosecution, the explosives were stored in a farmhouse and not in a licensed cracker shop or authorised storage premises.

19. It was further contended that, if the petitioners had in fact possessed a valid licence and supporting bills, they ought to have approached the learned Judicial Magistrate seeking return of the



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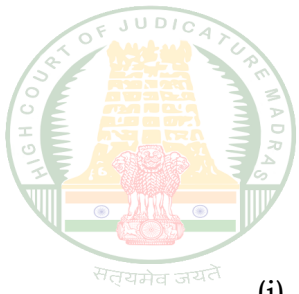
seized explosives. However, no such application was filed. Consequently, orders came to be passed by the learned Judicial Magistrate permitting destruction of the explosives.

20. The learned Government Advocate further submitted that apart from Section 328 IPC, offences under Sections 273 and 285 IPC are also clearly attracted. It was further argued that Section 328 IPC is punishable with imprisonment extending up to ten years and therefore the question of limitation does not arise in the present case. The learned Government Advocate ultimately submitted that storing tobacco products and explosives in a farmhouse itself constitutes an offence and therefore sought dismissal of the petition.

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

Points for consideration:

22. In the light of the rival submissions, the following points arise for consideration:



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(i) Whether the prosecution is liable to be quashed on the ground that the informant himself conducted the investigation?

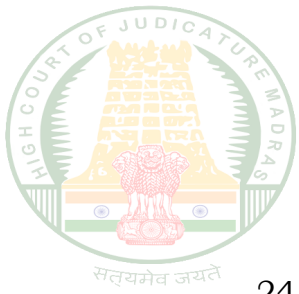
(ii) Whether the offences under Sections 273, 328 and 285 IPC and the provisions of the Cigarettes and Other Tobacco Products Act, 2003, and Explosives Act, 1884, are *prima facie* attracted?

(iii) Whether absence of chemical analysis or forensic examination is fatal to the prosecution at the threshold stage?

(iv) Whether the proceedings against the second petitioner are liable to be quashed for want of specific allegations?

Analysis:

23. The contention of the petitioners that the informant himself investigated the case cannot be accepted as an absolute proposition of law warranting automatic quashment. Though fairness in investigation is an indispensable constitutional requirement, the mere fact that the informant and Investigating Officer are the same person would not *ipso facto* vitiate the proceedings unless prejudice or mala fides are demonstrably established. At this stage, this Court is unable to hold that the investigation stands irretrievably vitiated solely on the said ground.



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24. The principal contention of the petitioners relates to the invocation of Section 328 IPC. Section 328 IPC contemplates administration of poison, stupefying, intoxicating or unwholesome substances with intent to cause hurt or facilitate commission of an offence.

25. A careful reading of the final report reveals that the allegation against the petitioners is one of possession and storage of tobacco products. There is no allegation that the petitioners administered such substances to any identifiable individual.

26. Mere possession of tobacco products, however morally or medically reprehensible, cannot automatically satisfy the statutory ingredients of Section 328 IPC. The offence under Section 328 IPC requires a positive act of causing another person to consume or take such substance.

27. In the absence of any allegation relating to administration, consumption, inducement or facilitation directed towards any person, this Court is of the considered view that the ingredients of



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Section 328 IPC are not *prima facie* made out. Therefore, insofar as the offence under Section 328 IPC is concerned, continuation of prosecution would amount to abuse of process of law.

28. Section 273 IPC deals with sale or exposure for sale of noxious food or drink. Whether the alleged tobacco products fall within the ambit of “noxious substances” and whether the same were intended for sale are matters requiring evidence.

29. At the stage of quash proceedings, this Court cannot undertake a meticulous appreciation of disputed factual issues. The seizure of large quantities of tobacco products coupled with the allegations in the final report cannot be brushed aside altogether at this preliminary stage. Therefore, this Court is not inclined to quash the proceedings insofar as Section 273 IPC is concerned.

30. The petitioners rely upon the licence granted in favour of the first petitioner. However, the prosecution specifically alleges that the explosives and crackers were stored in a farmhouse and not in the licensed premises.

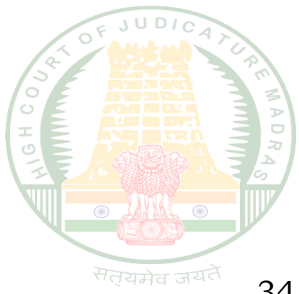


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31. Whether the storage location was authorised under the licence conditions and whether the petitioners violated statutory requirements are matters which require appreciation of evidence during trial. The existence of a licence by itself cannot constitute a complete defence at the threshold stage.

32. Consequently, this Court is not inclined to quash the proceedings relating to the offences under the Explosives Act, 1884, and Section 285 IPC.

33. The petitioners strongly rely upon the absence of forensic examination. This Court is conscious of the fact that scientific examination would undoubtedly strengthen the prosecution case. However, absence of such examination is not invariably fatal at the threshold stage. Whether the prosecution can ultimately establish the nature of the seized products by other evidence is a matter for trial. Therefore, this Court is not inclined to terminate the prosecution solely on the said ground.



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34. A careful reading of the final report reveals that the allegations are predominantly directed against the first petitioner. Except the statement that the second petitioner is the son of the first petitioner, no specific overt act or incriminating material has been placed before this Court against the second petitioner.

35. Criminal law cannot be set in motion merely on the basis of relationship or familial association. In the absence of specific allegations connecting the second petitioner with the alleged offences, continuation of proceedings against him would amount to misuse of criminal process. Therefore, the proceedings against the second petitioner are liable to be quashed.

Epilogue:

36. The inherent jurisdiction of this Court exists not to stifle legitimate prosecution, but equally not to permit criminal law to become an instrument of indiscriminate prosecution unsupported by foundational allegations. Courts exercising jurisdiction under Section 528 BNSS must maintain a delicate constitutional balance between



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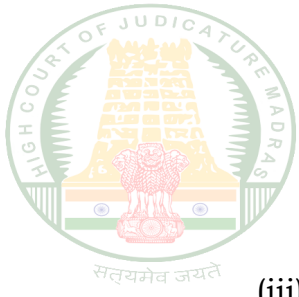
societal interest in prosecution and individual protection against abuse of criminal process.

37. While allegations involving prohibited tobacco products and unsafe storage of explosives undoubtedly raise serious public safety concerns, criminal prosecution must nevertheless remain tethered to the precise statutory ingredients governing each offence. In the considered opinion of this Court, the offence under Section 328 IPC is clearly unsustainable on the admitted allegations. Equally, the prosecution against the second petitioner lacks foundational material. However, the remaining allegations involve disputed factual issues requiring evidentiary adjudication during trial.

38. In the result,

(i) this Criminal Original Petition is partly allowed;

(ii) the proceedings in S.C.No.9 of 2025 on the file of the learned Principal District Court, Karur District, insofar as the offence under Section 328 IPC is concerned, are hereby quashed;



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(iii) the proceedings against the second petitioner/A2 are also hereby quashed in entirety;

(iv) the prosecution as against the first petitioner/A1 for the remaining offences shall proceed in accordance with law;

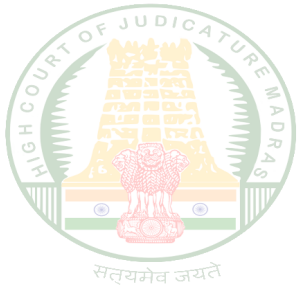
(v) consequently, connected miscellaneous petition is closed.

01.06.2026

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

To

- 1.The Principal District Court,
Karur District.
- 2.The Inspector of Police,
Chithamanipatty Police Station,
Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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