



Crl.OP(MD)No.1289 of 2026

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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.1289 of 2026

1. Thomas @ Dhamas

2. Lingabalan

... Petitioner/Accused No.1 & 2

Vs.

1. The State of Tamilnadu,
Rep by Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram District.
Crime No.2 of 2023

.... Respondent / Complainant

2. Vengateswaran

..... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the proceedings in C.C.No.209 of 2023 on the file of the Learned Judicial Magistrate, Paramakudi, Ramanathapuram District and quash the same as against the petitioners/Accused No.1 and 2.



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

ORDER

The present Criminal Original Petition brings before this Court a prosecution arising out of Crime No.2 of 2023 registered by the Paramakudi Taluk Police Station for the alleged offences under Sections 294(b), 341, 353 and 506(ii) of the Indian Penal Code. After investigation, the first respondent police laid a final report, which has been taken on file as C.C.No.209 of 2023 by the learned Judicial Magistrate, Paramakudi.

2. The petitioners, who are arrayed as accused Nos.1 and 2, seek quashment of the said criminal proceedings on the ground that the case is a counterblast to an illegal and high-handed enquiry conducted by the *de-facto* complainant in connection with an alleged theft, and that the allegations, even if accepted in their entirety, do not constitute the offences alleged.



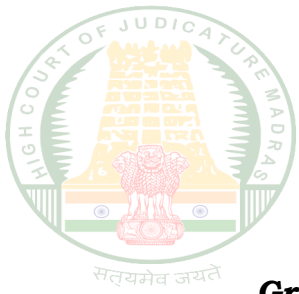
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Case of the prosecution:

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3. The prosecution case, in brief, is that on 01.01.2023, the *de-facto* complainant, being a police official, was discharging his official duty. It is alleged that the petitioners abused him in obscene words, wrongfully restrained him, obstructed him from discharging his official duty, and criminally intimidated him with dire consequences.

4. On the basis of the said complaint, Crime No.2 of 2023 came to be registered by the first respondent police for the offences under Sections 294(b), 341, 353 and 506(ii) IPC. After completion of investigation, the first respondent filed a final report before the learned Judicial Magistrate, Paramakudi, and the same is now pending as C.C.No.209 of 2023. According to the prosecution, the accused had acted in concert and had intentionally prevented the *de-facto* complainant from performing his lawful duty as a public servant.



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Grounds for quash:

5. The petitioners contend that the entire prosecution is false, exaggerated and motivated. According to them, on the midnight of 01.01.2023, the first petitioner had attended the New Year Holy Mass at Infant Jesus Church, Ulaganathapuram, Paramakudi, situated near his residence. After the mass concluded at about 1.30 a.m., the petitioner and his friends cut a cake and celebrated outside the church.

6. It is the specific case of the petitioners that the *de-facto* complainant came to the church premises along with police personnel, made an enquiry and thereafter sent the persons gathered there to their respective homes. According to the petitioners, this conduct itself would show that no unlawful act was committed by the petitioners at that time.

7. The petitioners would further submit that thereafter, on the morning of 01.01.2023, the *de-facto* complainant came alone to the house of the first petitioner without any summons, notice or enquiry



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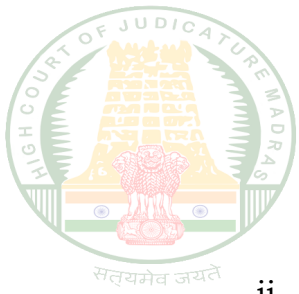
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slip and took him into custody. It is alleged that he was brought to the church premises and interrogated in relation to an alleged theft said to have occurred about 800 metres away on the same night.

8. The first petitioner allegedly denied any involvement in the theft and questioned the manner in which he was taken for enquiry without any lawful procedure. The second petitioner / A2 is stated to have come to the spot later and questioned the *de-facto* complainant regarding the baseless accusation made against A-1. According to the petitioners, the present complaint was lodged only to justify and cover up the earlier illegal detention and coercive interrogation. They would therefore contend that the prosecution is mala fide, vindictive and a clear abuse of process.

9. The petitioners further contend that the final report is mechanical and does not disclose the basic ingredients of the offences alleged. They submit that:

i. no specific obscene words are mentioned to attract Section 294(b) IPC;



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ii. no material is available to show wrongful restraint under Section 341 IPC;

iii. no overt act of assault or use of criminal force is alleged to attract Section 353 IPC; and

iv. no grave, real or imminent threat is disclosed to attract Section 506(ii) IPC.

The petitioners therefore seek quashment of C.C.No.209 of 2023 insofar as they are concerned.

Submissions on either side:

10. The learned counsel appearing for the petitioners submitted that the allegations in the FIR and the final report are omnibus, vague and artificial. He would submit that the prosecution has been built not upon a genuine occurrence, but upon the need to justify an earlier unlawful enquiry conducted against A-1 in connection with an alleged theft.

11. The learned counsel further submitted that the first petitioner was not involved in any theft and had no criminal



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antecedents. He had merely attended the New Year Holy Mass and was thereafter subjected to an unwarranted enquiry. When such illegal action was questioned, the present case was foisted against the petitioners.

12. It was further argued that even if the entire final report is taken at its face value, the offences alleged are not made out. The learned counsel submitted that Section 294(b) IPC requires a specific allegation of obscene words uttered in or near a public place causing annoyance to others. In the present case, the alleged obscene words have not been specifically stated.

13. With regard to Section 341 IPC, the learned counsel submitted that there is no specific material to show that the *de-facto* complainant was prevented from proceeding in any direction in which he had a right to proceed.

14. With regard to Section 353 IPC, it was submitted that mere questioning of a police official would not amount to assault or use of



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criminal force. Unless there is a clear overt act showing assault or criminal force with intent to deter a public servant from discharging his duty, Section 353 IPC cannot be invoked.

15. As regards Section 506(ii) IPC, the learned counsel submitted that the final report does not disclose any real, grave or imminent threat capable of causing alarm. A bald allegation of threat would not satisfy the statutory requirement of criminal intimidation. The learned counsel therefore prayed that the proceedings in C.C.No. 209 of 2023 may be quashed as against the petitioners.

16. Per contra, the learned Government Advocate appearing for the first respondent submitted that the allegations in the final report disclose cognizable offences and that the truth or otherwise of the allegations must be tested only during trial. The learned Government Advocate further submitted that the *de-facto* complainant was a public servant discharging his official duty and that the petitioners had obstructed him, abused him and threatened him. Therefore,



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according to the prosecution, the offences under Sections 294(b), 341, 353 and 506(ii) IPC are *prima facie* made out.

17. It was further submitted that this Court, while exercising jurisdiction under Section 528 BNSS, ought not to conduct a roving enquiry into disputed questions of fact. The learned Government Advocate therefore prayed for dismissal of the petition.

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

Point for consideration:

19. The point that arises for consideration is whether the final report in C.C.No.209 of 2023 on the file of the learned Judicial Magistrate, Paramakudi, arising out of Crime No.2 of 2023, discloses the essential ingredients of the offences under Sections 294(b), 341, 353 and 506(ii) IPC as against the petitioners, or whether the



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continuation of the criminal proceedings would amount to an abuse of process of law warranting interference under Section 528 BNSS?

Analysis:

20. The prosecution arises out of an alleged occurrence dated 01.01.2023. The petitioners' version is that A-1 had attended the New Year Holy Mass at Infant Jesus Church, Ulaganathapuram, Paramakudi, and that after the mass, he and others were celebrating outside the church. The *de-facto* complainant is stated to have come there with police personnel, made an enquiry and sent them home. The further allegation of the petitioners is that thereafter the *de-facto* complainant came to A-1's house without summons, notice or enquiry slip and took him for interrogation in relation to an alleged theft. According to the petitioners, when this was questioned by A-1 and later by A-2, the present complaint came to be registered.

21. This Court is conscious that the defence version cannot ordinarily be accepted as gospel truth at the stage of quashment. However, where the prosecution materials themselves are vague and



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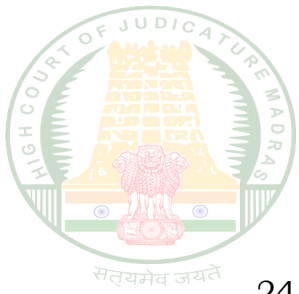
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do not disclose the statutory ingredients of the offences alleged, the Court is duty-bound to examine whether the continuation of the proceedings would serve any legitimate purpose.

22. The substratum of the prosecution appears to be that the petitioners questioned the *de-facto* complainant during an enquiry. Mere questioning, protest or verbal altercation with a police official, without the necessary ingredients of the penal offences alleged, cannot automatically be criminalised under serious provisions of the IPC.

23. As regards section 294(b) IPC is concerned, it punishes the utterance of obscene words in or near any public place, provided such utterance causes annoyance to others. Therefore, the essential ingredients are:

- i. utterance of obscene words;
- ii. such utterance must be in or near a public place; and
- iii. it must cause annoyance to others.

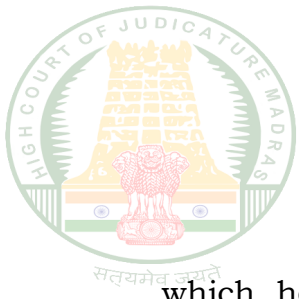


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24. In cases involving Section 294(b) IPC, the complaint or final report must disclose the actual obscene words alleged to have been uttered. A general allegation that the accused abused the complainant in filthy or obscene language is not sufficient. The Court must be able to see whether the words attributed to the accused are obscene in the legal sense.

25. In the present case, the final report does not specifically set out the obscene words allegedly uttered by the petitioners. There is also no clear material showing that such alleged words caused annoyance to any member of the public. In the absence of the exact words and in the absence of material showing public annoyance, the offence under Section 294(b) IPC is not made out. A vague allegation of abuse cannot be permitted to mature into a criminal trial under Section 294(b) IPC.

26. Section 341 IPC deals with punishment for wrongful restraint. Wrongful restraint means voluntarily obstructing a person so as to prevent that person from proceeding in any direction in



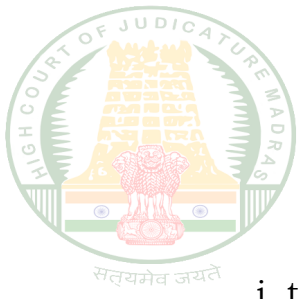
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which he has a right to proceed. The essence of the offence is physical obstruction or prevention of movement. A mere exchange of words, questioning of authority, or protest against an enquiry would not by itself constitute wrongful restraint.

27. In the present case, the prosecution has not placed any specific material to show that the *de-facto* complainant was physically prevented from moving in any particular direction. The final report does not disclose where exactly he was restrained, how he was restrained, for what duration he was restrained, and by what specific overt act each petitioner prevented his movement. In the absence of such foundational particulars, the allegation under Section 341 IPC remains bald and unsustainable. Therefore, the offence under Section 341 IPC is not *prima facie* made out.

28. Section 353 IPC is attracted when a person assaults or uses criminal force against a public servant with intent to prevent or deter him from discharging his duty as such public servant. The essential ingredients of Section 353 IPC are:



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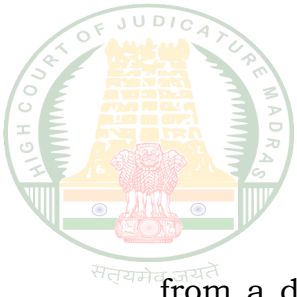


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- i. the person concerned must be a public servant;
- ii. there must be assault or use of criminal force;
- iii. such assault or criminal force must be used while the public servant is discharging his duty; and
- iv. the intention must be to prevent or deter the public servant from discharging such duty.

29. The mere fact that the complainant is a police official does not automatically attract Section 353 IPC. There must be a specific allegation of assault or use of criminal force. A verbal protest, resistance by words, or questioning of the legality of police action, without any overt act amounting to assault or criminal force, cannot constitute an offence under Section 353 IPC.

30. In the present case, the final report does not disclose any clear act of assault or use of criminal force by either of the petitioners. The prosecution has not attributed any specific physical act to A-1 or A-2 by which the *de-facto* complainant was assaulted or criminal force was used against him. The allegation appears to arise



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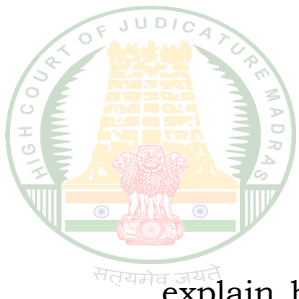
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from a dispute during an enquiry relating to an alleged theft. Even assuming that the petitioners questioned the *de-facto* complainant, such conduct, without more, cannot be stretched to attract Section 353 IPC. Therefore, the offence under Section 353 IPC is not made out on the materials placed before this Court.

31. Section 506(ii) IPC relates to aggravated criminal intimidation. To attract the said provision, the alleged threat must be of such a nature as to cause alarm to the complainant, and it must relate to death, grievous hurt, destruction of property by fire, or other serious consequences contemplated by the provision.

32. A casual, vague or general allegation that the accused threatened the complainant with dire consequences is insufficient. The threat must be real, grave and proximate. It must be shown that the complainant was put in fear or alarm.

33. In the present case, the final report does not disclose the exact words of threat allegedly uttered by the petitioners. It does not

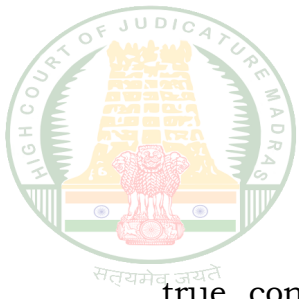


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explain how the alleged threat was grave enough to attract Section 506(ii) IPC. No material is placed to show that the *de-facto* complainant was actually alarmed by the alleged threat. In the absence of specific words, surrounding circumstances and material showing alarm, the offence under Section 506(ii) IPC is not *prima facie* established.

34. This is not a case where the Court is dealing with an FIR at the threshold of investigation. Investigation has already been completed and a final report has been filed. Therefore, the Court has the benefit of examining not merely the FIR but also the prosecution's final version. Where, even after investigation, the final report does not disclose the basic ingredients of the offences alleged, compelling the accused to face trial would amount to abuse of process. The filing of a final report does not immunise a prosecution from judicial scrutiny under Section 528 BNSS.

35. In final-report quash matters, the Court must examine whether the materials collected during investigation, even if taken as

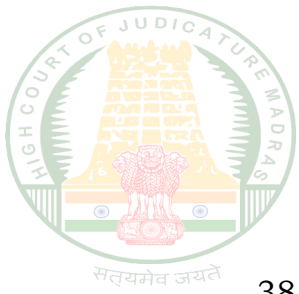


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true, constitute the alleged offences. If the answer is in the negative, the continuation of prosecution would be futile. In the present case, the allegations remain vague even after investigation. The final report does not cure the defects in the complaint. There is no specific obscene utterance for Section 294(b) IPC; no clear obstruction of movement for Section 341 IPC; no assault or criminal force for Section 353 IPC; and no grave or real threat for Section 506(ii) IPC.

36. The petitioners have specifically pleaded that the prosecution is a counterblast to the questioning of an illegal enquiry conducted by the *de-facto* complainant in relation to an alleged theft. According to them, A-1 was taken from his house without summons or notice and interrogated, and when the petitioners questioned such conduct, the present case was foisted.

37. This Court is not required to finally adjudicate upon the truth of the said allegation in this petition. However, the said background assumes relevance when the prosecution materials themselves are vague and do not disclose the offences alleged.

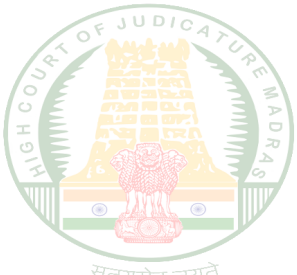


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38. The criminal law cannot be used to silence a citizen merely because he questions the legality of police action. At the same time, public servants discharging lawful duty are entitled to protection from obstruction, assault and intimidation. The decisive question is whether the prosecution materials disclose such obstruction, assault or intimidation in the legal sense. In the present case, they do not.

39. Therefore, this Court is of the considered view that the continuation of the proceedings against the petitioners would amount to an abuse of process of law. Upon consideration of the FIR, the final report and the allegations made therein, this Court finds that the essential ingredients of Sections 294(b), 341, 353 and 506(ii) IPC are not made out as against the petitioners.

40. The allegations are vague, omnibus and unsupported by the necessary particulars. The final report appears to have been filed in a mechanical manner without properly examining whether the statutory ingredients of the alleged offences were satisfied. Therefore, this is a fit case for exercise of inherent jurisdiction under Section



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528 BNSS to secure the ends of justice and to prevent abuse of
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process.

41. In the result, this Criminal Original Petition is allowed. The proceedings in C.C.No.209 of 2023 on the file of the learned Judicial Magistrate, Paramakudi, Ramanathapuram District, arising out of Crime No.2 of 2023 on the file of the Paramakudi Taluk Police Station, Ramanathapuram District, are hereby quashed insofar as the petitioners / accused Nos.1 and 2 are concerned.

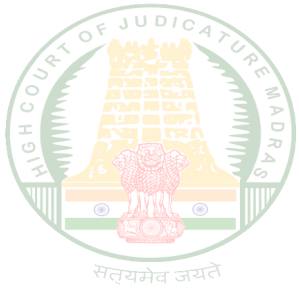
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To

1. The Inspector of Police,
Paramakudi Taluk Police Station,
Ramanathapuram 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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