

Crl.OP(MD).No.1615 of 2026

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 08.07.2026

ORDER PRONOUNCED ON : 21.07.2026

CORAM

THE HONOURABLE MR JUSTICE R.VIJAYAKUMAR

Crl.OP.(MD)No.1615 of 2026
and Crl.MP(MD).No.1757 of 2026

1.Saraswathi

2.Uthanduraj

...Petitioners/Accused 1 & 2

Vs

1.State of Tamil Nadu Rep.by
The Sub Inspector of Police
Vasudevanallur Police Station
Tenkasi District
Crime No.307 of 2025

.....1st Respondent/Complainant

2.Kumar

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned charge sheet in S.T.C.No.983 of 2025 on the file of the Judicial Magistrate Court, Sivagiri for the offences under Section 296(b), 115(2) and 351(2) of BNS 2023 and quash the same.

For Petitioners : Mr.A.Aruljenifer

For Respondents : Mr.G.Ganesh Kumar
Government Advocate (Crl.side) for R1

: No appearance for R2



CrI.OP(MD).No.1615 of 2026

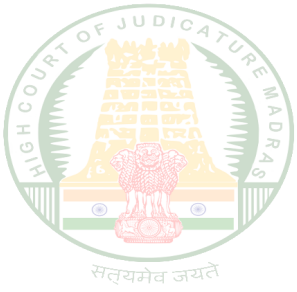
WEB COPY

ORDER

The present petition has been filed by accused persons in S.T.C.No.983 of 2025 on the file of the Judicial Magistrate Court, Sivagiri wherein the petitioners are charged with the offence under Sections 296(b), 115(2) and 351(2) of Bharatiya Nyaya Sanhita (BNS), 2023.

(A).Factual Matrix:

2.A perusal of the charge sheet reveals that the petitioners are residing on the western side of the defacto complainant's house and there is a dispute with regard to a common pathway between them. In the corner of the said common pathway, an electrical post has been erected and E.B.stay wire has been planted by the defacto complainant. At about 3.50 p.m on 21.10.2025, when the defacto complainant was looking at the E.B.stay wire, the first accused came out of his house and abused the defacto complainant and questioned why E.B.stay wire has been planted. When the same was questioned by the defacto complainant, the second accused abused the defacto complainant and attacked him and caused simple injury. Later, there was confrontation between the parties. Based upon the said allegation, an F.I.R came to be registered as against the petitioners in Crime No.307 of 205 on the file of the first respondent police.



Crl.OP(MD).No.1615 of 2026

3.A counter complaint has been lodged by the first accused in Crime No.307 of 2025 as against the defacto complainant and the same has been registered in the same police station in Crime No.306 of 2025. As per counter complaint, at about 3.00 p.m on 21.10.2025, when the accused person in Crime No.307 of 2025 were inside their house, the defacto complainant in Crime No.307 of 2025 is said to have called out them and abused them with obscene words and threatened them to commit murder. When it was confronted, there was a mutual attack and in which the lady got injured and it was threatened that the common lane should not be used and no Court proceedings should be initiated in this regard. This F.I.R has also culminated in filing of a charge sheet and the same is taken on file by the Judicial Magistrate, Sivagiri in C.C.No.528 of 2025.

4.A perusal of both the charge sheets reveal that the investigation officer is one and the same. The charge sheet in C.C.No.528 of 2025 has been filed on 11.11.2025. The charge sheet in S.T.No.983 of 2025 has been filed on 14.11.2025. A prima facie reading of both the charge sheets reveal that they are rival versions of the same incident. The Judicial Magistrate, Sivagiri has taken cognizance of both the final report.

(B).Submissions of the counsels appearing on either side:

5.According to the learned counsel for the petitioners, the Hon'ble Full Bench decision of this Court reported in *(2024) 3 MLJ (Crl) 458 (T.Balaji*



Crl.OP(MD).No.1615 of 2026

and another Vs.State Rep.by the Inspector of Police, New Washermenpet

Police Station, Chennai and another) has not been followed either by the investigating officer at the time of filing of the final report or by the Court at the time of taking cognizance. He further submitted that when there are rival versions of the same incident, the investigation officer should have found out who is the real aggressor.

6.According to the petitioners, the real aggressor is the defacto complainant/second respondent in the present case and therefore, the F.I.R in Crime No.307 of 2025 should have been closed as mistake of fact and he should have filed a charge sheet only in Crime No.306 of 2025. He extensively relied upon paragraph No.58 of the Full Bench Judgment cited supra wherein the Hon'ble Full Bench of this Court were pleased to issue various guidelines to the investigation officers as well as the trial Court. The learned counsel for the petitioners had further submitted that PSO 566 has not been followed by the investigation officer. Hence, he prayed for quashing of the charge sheet.

7.The second respondent/defacto complainant was served through Court on 18.02.2026 but there is no appearance either in person or through counsel.

8.The learned Government Advocate (Crl.side) appearing for the first respondent relying upon the Full Bench decision in *T.Balaji's case*, submitted



that when the investigation officer found that both the parties are aggressors, he is empowered to file two charge sheets. Even in cases where the investigating officer is not able to fix the criminal liability on one of the parties, he is entitled to file two charge sheets. Hence, according to him, the present charge sheet cannot be quashed on the ground that the investigation officer has filed two final reports.

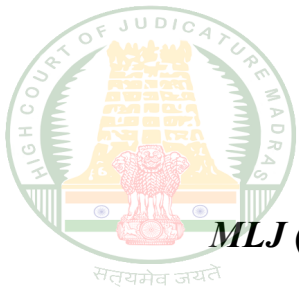
9. Heard the learned counsel appearing on either side and perused the material records.

(C).Discussion:

10. As pointed out by this Court, a careful perusal of both the charge sheets reveal that they are rival versions of the same incident. The police authorities have chosen to register two F.I.Rs in Crime Nos. 306 of 2025 and 307 of 2025. Both the F.I.Rs have been registered on 23.10.2025. The charge sheets have been filed on two different dates before the same Court namely Judicial Magistrate Court, Sivagiri. The Magistrate has taken cognizance and had issued summons in both cases.

11. In the light of the above said admitted facts, the issue that arises for consideration is whether taking cognizance of both final reports can be a ground for quashing of the charge sheets or not.

12. For better appreciation, paragraph Nos. 58(A)(b)(v) and 58 (B)(a) (iv) and (v) of the judgment of the Hon'ble Full Bench reported in **(2024) 3**



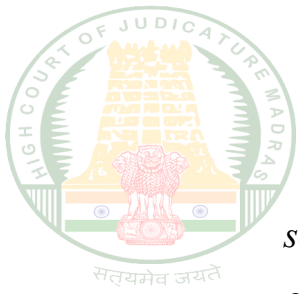
MLJ (Crl) 458 are extracted as follows:

WEB COPY

58(A)(b)(v): *Where after a thorough investigation he is unable to find the real aggressor or where both parties are aggressors and have exceeded the bounds of the law and committed independent offences against each other, he may file a final report in each of the cases. For the sake of clarity, we repeat that these are cases which are not inconsistent with each other. They are no doubt rival versions of the same incident but are cases where both parties are found to have acted lawlessly or committed acts of aggression. It is not necessary for the IO to obtain an opinion from the Public Prosecutor before filing two final reports in such cases. However, the IO must assign proper reasons indicating the factual reasons for filing two final reports in such cases.*

58(B)(a)(iv) and (v): *Where two final reports are filed in a case and counter case, it is the duty of the Magistrate to scrutinize the final reports carefully. If it is found that the final reports put forward inconsistent rival versions of the same incident (ie., if one version is true the other must necessarily be false), or where it is found that the IO has filed two final reports mechanically without properly investigating and finding out the true aggressor the Magistrate shall return the final reports and direct the IO to come up with a definitive case.*

v. In rare cases, where such final reports are not screened out at the level of the Magistrate, and cognizance has been inadvertently taken, such orders may be challenged under Section 528 BNSS 2023 in which case the orders of cognizance may be



Crl.OP(MD).No.1615 of 2026

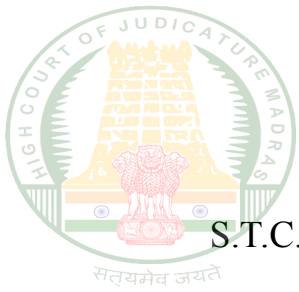
WEB COPY

set aside, depending upon the stage of the cases, with a consequential direction to follow PSO 566.”

13.From the judgment of the Hon'ble Full Bench, it is clear that when the investigating officer is unable to find the real aggressor or whether both the parties were aggressors, he may file two final reports. However, the investigating officer has to assign proper reasons for filing two final reports in such cases. However, in the present case, though two final reports have been filed, the investigation officer has not assigned any reason whatsoever in both the final reports for filing two final reports.

14.The Hon'ble Full Bench has further pointed out that when two final reports are available in a case and in a counter case, the Judicial Magistrate has to scrutinise the final report. The Magistrate has to return the final reports and direct the Investigating Officer to come up with a definite case. However, in the present case, the final reports have not been returned, but the Court has proceeded to take cognizance. As per the judgment of the Hon'ble Full Bench, when the cognizance has been inadvertently taken, such order may be challenged under Section 528 of BNSS 2023 and the order of cognizance can be set aside depending upon the stage of the case.

15.In the present case, admittedly, so far trial has not begun and therefore, this Court has no hesitation in invoking the powers under Section 528 of BNSS 2023 to set aside the order of taking cognizance not only in



Crl.OP(MD).No.1615 of 2026

S.T.C.No.983 of 2023 but also in C.C.No.528 of 2025 and therefore, there shall be a direction to follow PSO 566.

PSO 566(2) and (3) are extracted as follows:

“566(2): Charge-sheets in cases and counter cases.-In a complaint and counter complaint obviously arising out of the same transaction the investigating officer should enquire into both of them and adopt one or the other of the two courses viz., (1) to charge the case where the accused were the aggressors or (2) to refer both the cases if he should find them untrue. He should place before the court a definite case which he asks it to accept. The investigating officer in such cases should not accept into one complaint and examine only witnesses who support it and gave no explanation at all for the injuries caused to the other side. It is his duty to exhibit the counter-complaint in the court and also to prove medical certificates of persons wounded on the opposite side. The truth in these cases is invariably not in strict conformity with either complaint and it is quite necessary that all the facts are placed before the court to enable it to arrive at the truth and a just decision.

566(3): If the Investigating Officer finds that the choice of either course is difficult, viz., to charge one of the two cases or to throw out both, he should seek the opinion of the Public Prosecutor of the district and act accordingly. A final report should be sent in respect of the case referred as mistake of law and the complainant or the counter-complainant as the case may be, should be advised about the disposal by a notice in Form No.



WEB COPY



Crl.OP(MD).No.1615 of 2026

*90 and to seek remedy before the specified Magistrate, if he is aggrieved by the disposal of the case by the Police.
(G. O. Ms. No, 182, Home, dated 23rd January 1958.)”*

16.The Magistrate can taken cognizance of both the final reports which are rival versions of the same incident, only after he arrives at a factual findings that both the parties have engaged in the act of aggression. In the present case, there is no such factual finding on the part of the Judicial Magistrate while taking cognizance in S.T.C.No.983 of 2025.

17.When taking cognizance based upon a final report filed by the investigating officer, the trial Court may not be aware of the fact that a rival complaint is pending in the investigation stage or it is closed as a mistake of fact. The Court may not be aware that another final report has also been filed arising out of the rival complaint. Unless the investigating officer, in the final report, points out the pendency of the rival complaint and its stage, it is not possible for the Court to exercise its power and scrutinize the final report and to find out whether PSO 566 has been followed or not.

18.In such view of the matter and in continuation of the directions issued by the Hon'ble Full Bench in Paragraph No.58(A)(b)(v), the investigating officer has to point out the real aggressor or assign proper reasons for filing two final reports. This reason should be found in both the final reports. Even in cases where only one final report is filed arising out of



Crl.OP(MD).No.1615 of 2026

one complaint, the fate of the other rival complaint should be pointed out.

This would enable the trial Court to scrutinise the final report or to await for the result of the protest petition filed, challenging the closure of the rival complaint.

19.The Hon'ble Full Bench in Paragraph No.58(A)(b)(vii) has pointed out that the directions issued to the investigation officer have to be adhered to scrupulously and failure to follow would attract departmental action. The trial Courts when they come to know that the final reports do not reflect the fate of the rival complaint, they should immediately address a communication to the concerned higher officials for initiating appropriate action as against the concerned investigating officer. This would apply to all the cases where the final reports have been filed after 08.08.2024, the date on which judgment was delivered by the Hon'ble Full Bench.

20.In view of the above said deliberations, this Court is inclined to pass the following orders;

(D).Conclusion:

a)The orders taking cognizance in STC.No.983 of 2025 and C.C.No. 528 of 2025 on the file of the Judicial Magistrate, Sivagiri stand set aside.

b)There shall be a direction to the Judicial Magistrate, Sivagiri to return the final reports and direct the investigating officer, to strictly follow PSO 566 and the directions issued by the Hon'ble Full Bench in the



Crl.OP(MD).No.1615 of 2026

judgement reported in (2024) 3 MLJ (Crl) 458 (T.Balaji and another

***Vs.State Rep.by the Inspector of Police, New Washermenpet Police Station,
Chennai and another).***

c)With the above said observations, this Criminal Original Petition stands disposed of. Consequently, connected miscellaneous petition is closed.

21.07.2026.

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa

To

1.The Judicial Magistrate, Sivagiri

2.The Sub Inspector of Police
Vasudevanallur Police Station
Tenkasi District
Crime No.307 of 2025

3.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai



WEB COPY



Crl.OP(MD).No.1615 of 2026

R.VIJAYAKUMAR, J.

msa

CrI.OP.(MD)No.1615 of 2026
and CrI.MP(MD).No.1757 of 2026

21.07.2026