



Crl.OP(MD)No.8039 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.8039 of 2025

and

Crl.M.P(MD)No.6080 of 2025

Arul Stephenson

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Karungal Police Station,
Kanyakumari District.
(Crime No.305 of 2021)

2.Rhenius Jesupatham

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records in S.T.C.No.1159 of 2022 on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District and quash the same as illegal and devoid of merits as against the petitioner.

For Petitioner : Mr. S. Ramakrishnan

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

For R-2 : No appearance



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Crl.OP(MD)No.8039 of 2025

ORDER

Preface:

The present Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the proceedings in S.T.C.No.1159 of 2022 pending on the file of the learned Judicial Magistrate, Eraniel, Kanyakumari District.

2. The petitioner, who figures as the sole accused in the said case, seeks interference of this Court at the stage of trial contending that the prosecution is devoid of merits and does not disclose the commission of any offence.

Case of the prosecution:

3. The case of the prosecution, as discernible from the final report, is that on 09.08.2021, the respondent police, acting on credible information, conducted a search in a house situated in the native place of the petitioner, where his mother resides. During the course of such search, the police allegedly seized 150 litres of



Crl.OP(MD)No.8039 of 2025

fermented wash, intended for the manufacture of illicit liquor, stored in a 300-litre capacity barrel. A sample of one litre was taken from the said material in the presence of the Village Administrative Officer and the Village Assistant.

4. Based on the said seizure, a case in Crime No.305 of 2021 was registered for the offence under Section 4(1)(g) of the Tamil Nadu Prohibition Act, 1937, and upon completion of investigation, a final report was laid before the learned Judicial Magistrate, Eraniel, which was taken on file as S.T.C.No.1159 of 2022.

Grounds for quash:

5. The primary grounds raised by the petitioner for seeking quashment are as follows:

(i) The petitioner is a practising Advocate residing at Nagercoil and is not in occupation or physical possession of the premises from which the alleged contraband was seized.



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(ii) The property belongs to his family and is occupied only by his aged mother, and therefore, no nexus between the petitioner and the alleged contraband is established.

(iii) The final report does not enclose any chemical analysis report to substantiate that the seized substance was indeed fermented wash capable of being used for the manufacture of illicit liquor.

(iv) The prosecution is based on mere assumptions without any legally admissible material connecting the petitioner with the alleged offence.

Submissions of the petitioner:

6. The learned counsel for the petitioner would contend that the entire prosecution is vitiated by lack of material connecting the petitioner to the alleged offence. It is submitted that mere ownership of the premises cannot be equated with conscious possession. It is further contended that in the absence of a chemical analysis report, the very nature of the seized substance remains unproved, thereby rendering the prosecution unsustainable.



Crl.OP(MD)No.8039 of 2025

WEB COPY

Submissions of the Respondent / State:

7. Per contra, the learned Government Advocate (Criminal Side) would submit that the offence under Section 4(1)(g) of the Tamil Nadu Prohibition Act is attracted even by possession of any material that has undergone a process towards the manufacture of illicit liquor. It is further submitted that the seizure of a large quantity of fermented wash, coupled with the recovery from the premises belonging to the petitioner, clearly establishes *prima facie* involvement.

8. The learned Government Advocate would also contend that for such offences, chemical analysis is not always a *sine qua non*, particularly when the nature of the substance is apparent from the circumstances and seizure mahazar.

Point for consideration:

9. The point that arises for consideration in this petition is whether the materials available on record make out a *prima facie* case against the petitioner warranting continuation of proceedings in



Crl.OP(MD)No.8039 of 2025

S.T.C.No.1159 of 2022, or whether the same is liable to be quashed in exercise of the inherent powers under Section 528 of BNSS, 2023?

Analysis:

10. This Court has carefully considered the rival submissions and perused the materials available on record.

11. It is not in dispute that the respondent police have seized 150 litres of fermented wash from a barrel located in the premises belonging to the petitioner. The seizure has been effected in the presence of independent witnesses, namely the Village Administrative Officer and the Village Assistant, and a seizure mahazar has also been prepared.

12. The contention of the petitioner that he was not residing in the said premises and that only his mother was residing therein is a matter which involves appreciation of evidence and cannot be adjudicated in a petition under Section 528 of BNSS at this stage.



Crl.OP(MD)No.8039 of 2025

WEB COPY

13. The issue as to whether the petitioner had conscious possession or knowledge of the contraband is a question of fact, which has to be established during trial by letting in evidence.

14. As regards the absence of chemical analysis report, this Court finds force in the submission of the learned Government Advocate that under Section 4(1)(g) of the Tamil Nadu Prohibition Act, even possession of materials that have undergone any process towards manufacture of illicit liquor would attract the offence.

15. The seizure of a substantial quantity of fermented wash, coupled with the contemporaneous records such as seizure mahazar, constitutes sufficient *prima facie* material to proceed with the trial.

16. At the stage of quashment, this Court is not expected to conduct a meticulous examination of evidence or adjudicate disputed questions of fact. It is sufficient if the allegations, taken at face value, disclose the commission of an offence.



Crl.OP(MD)No.8039 of 2025

WEB COPY

17. In the present case, the materials placed by the prosecution do disclose a *prima facie* case against the petitioner and therefore, this Court is not inclined to interfere.

18. In view of the foregoing discussion, this Court finds no merit in the present Criminal Original Petition. Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petition is closed.

09.02.2026

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

To

- 1.The Judicial Magistrate,
Eraniel,
Kanyakumari District.
- 2.The Inspector of Police,
Karungal Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.OP(MD)No.8039 of 2025

L.VICTORIA GOWRI, J.

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CRL OP(MD)No.8039 of 2025

09.02.2026