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Crl.O.P.No.17450 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.06.2025

Coram:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.O.P.No.17450 of 2025 &
Crl.M.P.No.11073 of 2025

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- 1.Tamizvanan
- 2.Dharmaraj
- 3.Karunanith
- 4.Dhanalakshmi @ Lakshmi
- 5.Rani
- 6.Ganesan

.. Petitioners

Vs.

- 1.The State, rep. by its Inspector of Police,
Kunnam Police Station,
Perambalur District.

- 2.N.Sateeshkumar

.. Respondents

Criminal Original Petition filed under Section 528 of BNSS, to call for the records in C.C.No.29 of 2025, on the file of the Judicial Magistrate, Kunnam, Perambalur District and quash the same.

For petitioner : Mr.S.Ramachandran

For respondents: Dr.C.E.Pratap
Government Advocate (Criminal Side) for R1



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ORDER

The petitioner has filed this Criminal Original Petition under Section 528 of BNSS, seeking to quash the proceedings in C.C.No29 of 2025, pending on the file of the learned Judicial Magistrate, Kunnam, Perambalur District. The case arises out of Crime No.251 of 2023, registered against the petitioners for the alleged offences under Sections 147, 294(b), 323, 341, and 353 of the Indian Penal Code.

2. The learned counsel for the petitioners submitted that the property in question, bearing S.No.192/3, was the subject matter of a civil dispute in O.S.No.46 of 2014, which was under challenge in S.A.No.549 of 2010 before this Court. At the time of the alleged occurrence, the second appeal was pending and was at the stage of final arguments. The petitioners assert that they merely informed the process server and the decree holder that the matter was sub judice and requested them to await the decision of the Hon'ble High Court. It was contended that there was no obstruction or assault, and that the petitioners have been falsely implicated.

3. It is further submitted that the second appeal was ultimately allowed by this Court on 20.10.2023, and the execution proceedings initiated by the decree holder were thereby rendered non-est in law. The possession taken during the pendency of the appeal has since been restored to the petitioners. It is their case



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that their actions were solely to protect their lawful and subsisting rights in the property pending adjudication by this Court, and that the present criminal proceedings are nothing but an abuse of process.

4. Per contra, the learned Additional Public Prosecutor submitted that the defacto complainant, being the Senior Process Server of the Sub Court, was executing a lawful order for delivery of possession passed by the court below. It is submitted that the petitioners obstructed the execution of the said order and assaulted the official while he was discharging his official duty. Based on the complaint, investigation was conducted and charge sheet filed. It is argued that the acts alleged in the FIR attract the ingredients of the offences and cannot be brushed aside at the preliminary stage.

5. This Court has considered the submissions on either side and perused the complaint, charge sheet, and the statements recorded from witnesses under Section 161 Cr.P.C. Although it is the contention of the petitioners that they acted only to protect their legal rights during the pendency of the second appeal, which was ultimately decided in their favour, and that their request to the defacto complainant to wait for the final decision of this Court was neither unlawful nor intended to obstruct official duty, the materials placed before this Court, including the charge sheet and witness statements, disclose sufficient reasons to proceed with the case



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against the petitioners. Whether the allegations are true or the petitioners are innocent as claimed are matters to be adjudicated only during the course of trial, based on proper appreciation of evidence.

6. The power under Section 528 of BNSS (formerly Section 482 Cr.P.C.) is to be exercised sparingly, and only when the FIR and charge sheet do not disclose any offence, or when the proceedings amount to gross abuse of process of law. That threshold is not satisfied in the present case.

7. Accordingly, this Criminal Original Petition is dismissed. However, taking note of the civil background and the pendency of the matter since 2023, the trial Court is directed to expedite the proceedings in C.C. No.29 of 2025 and dispose of the case on its own merits and in accordance with law, preferably within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

17.06.2025

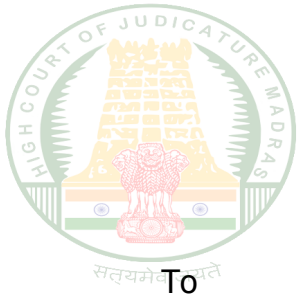
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Index : Yes/No

Neutral Citation Case : Yes/No

Speaking Order : Yes/No

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- To
1. The Inspector of Police,
Kunnam Police Station,
Perambalur District.
 2. The Public Prosecutor, Madras High Court, Chennai.



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