



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14-08-2025

WEB COPY

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 22638 of 2025

and

Crl.M.P.No.15484 of 2025

G.Venkatesan
S/o.Ganesan,
No.119/46, Perumal Mudali Street,
Royapettah, Chennai.

Petitioner(s)

Vs

1. The State Rep. by,
The Inspector of Police,
D-4, Zam Bazzar Police Station,
Chennai District. Cr.No.29/2022.

2.Thangaraj
F3, Numgambakkam Police Station,
Nungambakkam, Chennai.

Respondent(s)

PRAYER

This Criminal Original Petition has been filed under Section 528 of BNSS to call for the records and quash the entire proceedings in Cr.No.29/2022, on the file of the 1st respondent.



WEB COPY



For Petitioner(s): Mr. K.Karthik

For Respondent(s): Mr. R.Vinohraja,
Govt. Advocate (crl. Side)
for R1

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.29 of 2022, filed for the offences under Sections 188, 353, 506(i) of IPC r/w Section 132 of Representation of People Act.

2. The allegation in the First Information Report against the petitioner is that while the defacto complainant/2nd respondent, who is Head Constable was posted in the Ward Election Booth at Immaculate Hart Halls Mary Matriculation School, Mohammed Hussain Street, Royapettah, Chennai, for the local body election, the petitioner entered into the polling booth without wearing a mask and was conversing on his mobile phone. When the same was questioned by the defacto complainant, the petitioner allegedly became agitated, threatened him, and also prevented him from discharging his duties.



3. Heard the Learned counsel for the petitioner and the learned

Government Advocate (crl. Side) appearing for the first respondent.

WEB COPY

4. It is to be noted that while exercising the power under Section 482 of Cr.P.C, the Court should be slow, at the same time, if the Court finds that from the entire materials collected by the prosecution taken as a whole, would not constitute any offence, in such situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons and in this regard, the Apex Court in **State of Haryana and others Vs. Bhajan Lal and Others** reported in **1992 Supp (1) Supreme Court Cases 335**, has been held as follows :

'.....

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except



WEB COPY

under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.'



5. On perusal of the entire records, except for the allegation of mere oral threat, no other serious allegations have been made out. Even the allegations contained in the FIR, on the face of it, do not constitute any offence. There was no promulgation or prohibitory order under Section 188 IPC, and no such material is available on record. Further, the alleged threat is also only a mere forcible expression and as mentioned in the FIR, it does not disclose any threat to life. A threat without any intention will not constitute any offence.

6. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.29 of 2022 on the file of the first respondent is hereby quashed. Consequently connected miscellaneous petition is closed.

14-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp



WEB COPY

CRL OP No. 22638 of 2025



N.SATHISH KUMAR J.

mrp

To

The Inspector of Police,
D-4, Zam Bazzar Police Station,
Chennai District.

CRL OP No. 22638 of 2025

14-08-2025