



Crl.O.P.No.22696 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.22696 of 2025

S.Sugumar

... Petitioner

Vs.

1.State represented by
The Sub-Inspector of Police,
Pallikonda Police Station,
Vellore District.

2.Khabeer Ahmed

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita to call for the records pertaining to the FIR in
Crime No.136 of 2025 dated 07.07.2025 on the file of the Pallikonda Police,
Vellore District, i.e., the 1st respondent Police and quash the same.

For Petitioner : Mr.A.Suresh Sakthi Murugan

For R1 : Mr.K.M.D.Muhilan,
Additional Public Prosecutor

For R2 : Mr.K.Karuppaiyamooppanar



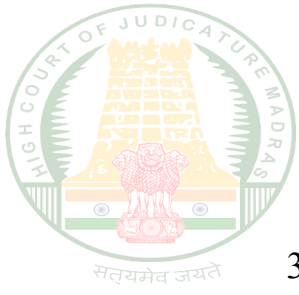
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ORDER

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This Criminal Original Petition has been filed to quash the FIR in Crime No.136 of 2025 on the file of the 1st respondent Police registered against the petitioner for the offences under Sections 329(4), 296(b), 115(2) and 351(2) BNS.

2.It is the case of the *de facto* complainant that, on hearing that the petitioner has stolen coconuts from the *de facto* complainant's land, when the *de facto* complainant questioned the same on 15.03.2025, the petitioner assaulted the *de facto* complainant with hands. Again, on 07.07.2025, when the *de facto* complainant went to his land, the petitioner trespassed into his land and abused him in a filthy language and threatened him of dire consequences. Hence, the *de facto* complainant lodged a complaint with the 1st respondent Police and based on the same, the present FIR came to be registered in Crime No.136 of 2025 for the offences under Sections 329(4), 296(b), 115(2) and 351(2) BNS. Challenging the same, the present Criminal Original Petition has been filed.



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3.Learned counsel for the petitioner would submit that the entire case is purely a civil dispute and a civil suit has also been filed by the petitioner in O.S.No.9 of 2025 against the *de facto* complainant and others for permanent injunction and the same is pending before the learned Principal District Munsif Court, Vellore. When the matter is pending before the Civil Court, this FIR came to be filed in order to give a criminal colour to the civil dispute.

4.Heard the learned counsel on either side and perused the materials available on record.

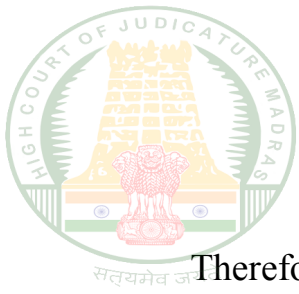
5.It is relevant to note that a civil suit has been filed by the petitioner in O.S.No.9 of 2025 before the Principal District Munsif Court, Vellore, as against the *de facto* complainant and others, for permanent injunction and the same is pending. Further, it is seen that the Tahsildar has also conducted an enquiry while issuing patta and he has clearly held that possession is not with the *de facto* complainant.



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6.Be that as it may. On a reading of the FIR, the allegations made in the FIR, even when taken in entirety, do not attract any offence as alleged by the prosecution. To attract the offence under Section 329(4) BNS, there should be a criminal trespass into one's property with intent to commit an offence or to intimidate. Here, in the present case, when there is a *bona fide* civil dispute with regard to the property which is pending before the Civil Court and more particularly, when the very possession itself is also disputed, mere allegation of one party entering into the property in question will not amount to criminal trespass to attract the offence under Section 329(4) BNS.

7.Similarly, except merely stating that the petitioner had attacked the *de facto* complainant by hands on 15.03.2025, no other allegation is made. However, it is relevant to note that the complaint came to be filed only on 07.07.2025. Had there been an assault on 15.03.2025, the immediate reaction of the *de facto* complainant would be to give a complaint, but the same has not been done in this case. Further, the FIR does not even state anything about the nature of injury sustained by the *de facto* complainant.

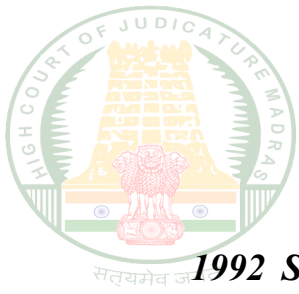


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Therefore, the entire allegations in the FIR do not attract the offence under Section 115(2) BNS for voluntarily causing hurt.

8. Similarly, except one abusive word, which appears to be added for the sake of filing a complaint, there is nothing in the FIR to show that the specific nature of criminal intimidation or real threat or abuse, whatsoever, made by the petitioner so as to attract the offences under Sections 351(2) and 296(b) BNS. Therefore, this Court is of the view that the entire allegations in the FIR even do not attract any offence under Sections 351(2) and 296(b) BNS.

9. Normally, while exercising the power under Section 528 of Bharatiya Nagarik Suraksha Sanhita, this Court should be slow, but at the same time, if the Court finds that the entire allegations in the FIR, even when taken as a whole, would not constitute any offence, in such situation, directing the parties to undergo the 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 v. Bhajan Lal and others* reported in



1992 Supp (1) Supreme Court Cases 335, has listed out the parameters

where FIR or the criminal proceedings can be quashed :

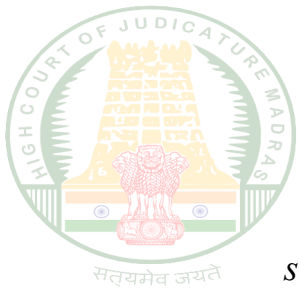
“..... (a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(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 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



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sufficient ground for proceeding against the accused; ...”

10. In view of the above, when the entire allegations in the FIR, even when taken as a whole, do not constitute any offence as alleged by the prosecution, and more particularly, when the proceedings of the Tahsildar dated 16.04.2025 also clearly indicates that *de facto* complainant is not in possession of the property, mere launching of FIR by the prosecution itself is not sufficient to arrive at a conclusion that the offences are made out. When the allegations made in the First Information Report, 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, continuing prosecution without any materials, is a clear abuse of process of law, and therefore, it is a fit case to quash the entire FIR as per the dictum of the Hon'ble Supreme Court in ***State of Haryana and others v. Bhajan Lal and others*** reported in ***1992 Supp (1) Supreme Court Cases 335***.

11. In such view of the matter, this Criminal Original Petition is allowed and the FIR in Crime No.136 of 2025 on the file of the 1st respondent Police is quashed. Let the parties agitate their rights before the Civil Court in the pending civil suit.



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22.09.2025

Internet : Yes
Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No

To

- 1.The Sub-Inspector of Police,
Pallikonda Police Station,
Vellore District.
- 2.The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.

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