



Crl.O.P.(MD) No.1052 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 17.10.2025

PRONOUNCED ON : 24.10.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.1052 of 2024

and

Crl.M.P.(MD) Nos.680 and 682 of 2024

S.Elavarasan

... Petitioner/Sole Accused

Vs.

1.State rep. by

The Inspector of Police,
TIW-Tirunelveli City Police Station,
Tirunelveli City District.
(Crime No.57 of 2023)

... 1st respondent/Complainant

2.Sagunthala

Special Inspector of Police,
C1 Police Station,
Palayamkottai, Tirunelveli City,
Tirunelveli District.

... 2nd Respondent/Defacto
Complainant

Prayer : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to the case registered in PRC No.287 of 2023 on the file of the Judicial Magistrate-I, Tirunelveli and quash the same as illegal.



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For Petitioner

: Mr.G.Anto Prince

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For Respondents

: Mr.R.Meenakshi Sundaram
Additional Public Prosecutor

ORDER

The petition seeks quashing of the impugned final report filed for the offence under Sections 279, 308 of IPC r/w 184 and 185 of the Motor Vehicles Act, 1988.

2. The allegation in the final report is that on 18.02.2023, at about 2.10 a.m., the petitioner in an inebriated condition rode his two-wheeler on the Tuticorin main road in a rash and negligent manner; that knowing that the said act is likely to cause death had dashed against the barricade; and that he sustained serious injuries.

3. The learned counsel for the petitioner would submit that even if the allegations are accepted to be true, none of the offences would be made out; that the petitioner was blinded due to the headlights of the vehicle on the opposite side and was unable to see the barricade and as a result of which, he dashed against the barricade and was injured seriously; that neither rashness nor negligence could be attributed to the petitioner;



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that since no one was injured, the offence under Section 308 of IPC would not be made out; that the respondents have not subjected the petitioner to medical tests to measure the alcohol content or to establish that the intoxication was of such a level that the commission of offence under Section 308 of the IPC could be inferred; and that hence the offence under Section 185 of the Motor Vehicles Act also is not made out.

4. The learned Additional Public Prosecutor *per contra* submitted that the allegations constitute the offences mentioned in the final report; that it is not necessary for any person to be injured for prosecution of the offence under Section 308 of the IPC; and that the offences under Section 184 of the Motor Vehicles Act and Section 279 of the IPC, are made out, even assuming that the respondents have not established that the petitioner was in an inebriated condition or was under the influence of a drug. Hence, he prayed for dismissal of the petition.

5. Since the major offence alleged against the petitioner is Section 308 of the IPC, we may first examine whether the allegations constitute the said offence.



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6. Section 308 of the IPC punishes attempt to commit culpable homicide. In the instant case, admittedly, no one was injured in the occurrence. Apart from the allegation that the petitioner had ridden his vehicle in a rash and negligent manner, there is nothing to suggest that he had the requisite intention or knowledge that by that act, he is likely to cause death. In fact, the final report itself states that the petitioner was guilty of rash and negligent riding. The mental state required to prosecute a person for the offence under Section 308 of the IPC is either intention or knowledge. When it is the specific case of the prosecution that the mental state involved in this case is rashness or negligence and not either intention or knowledge, the prosecution of the petitioner under Section 308 of the IPC is misconceived. As stated earlier, even otherwise, it was the petitioner who was injured and none else. Therefore, on the allegations, the offence under Section 308 of the IPC is not made out.

7. The other major offence for which the petitioner is sought to be prosecuted is Section 185 of the Motor Vehicles Act. The said provision makes a person liable for prosecution, if he rides his vehicle with alcohol level exceeding 30mg/100 ml in his blood. The final report does not suggest that the petitioner was subjected to any test to ascertain the



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alcohol level in his blood. The Doctor, who was examined by the respondent would only state that he had treated the petitioner for the injuries suffered by him in the accident and that he found him to be in an inebriated condition. Unless the prosecution had established that the alcohol content exceeded 30mg/100ml in his blood, the offence under Section 185 of the Motor Vehicles Act, would not be made out.

8. As regards the offence under Section 279 of the IPC and Section 184 of the Motor Vehicles Act, though the prosecution is primarily based on the fact that the petitioner was in an inebriated condition, for which there was no test conducted, the question as to whether the petitioner is still guilty of Section 279 of the IPC and Section 184 of the Motor Vehicles Act, are factual. It is hence desirable that the said points are raised before the trial Court as those points cannot be adjudicated in a quash petition. Therefore, this Court is not inclined to quash the final report insofar as the offences under Section 279 of the IPC and Section 184 of the Motor Vehicles Act. Since those offences are triable by the Magistrate, the learned Magistrate, before whom the case is pending committal may himself try those offences. We may also add that even if it is proved that the petitioner is guilty of those offences, the learned



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Magistrate may take into consideration that the petitioner had not caused injury to anyone and he himself suffered serious injuries, while awarding the sentence.

9. With the above observations, the Criminal Original Petition stands partly allowed and the final report filed for the offences under Section 308 of the IPC and Section 185 of the Motor Vehicles Act, alone is quashed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

10. The learned Magistrate may conclude the trial in respect of the two offences under Section 279 of the IPC and Section 184 of the Motor Vehicles Act, as expeditiously as possible.

24.10.2025

ars/dk

Index : Yes / No
Speaking / Non Speaking Order
Neutral Citation: Yes/No



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- 1.The Inspector of Police,
TIW-Tirunelveli City Police Station,
Tirunelveli City District.
- 2.The Special Inspector of Police,
C1 Police Station,
Palayamkottai, Tirunelveli City,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

ars/dk

Pre-delivery order in
Crl.O.P.(MD) No.1052 of 2024

24.10.2025