



Crl.O.P.(MD)No.1345 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.1345 of 2025
and Crl.M.P(MD).No.912 of 2025

Basheer Ahamed

: Petitioner

Vs.

1.The State of Tamil nadu
rep., by the Superintendent of Police,
Thanjavur District.

2.The Deputy Superintendent of Police,
Peravurani Sub-Division,
Thanjavur District.

3.The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District.
Crime No.395 of 2022

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the entire records pertaining to the unnumbered Crl.M.P docket order passed by the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur District, in STC.No.263 of 2024 dated 27.12.2024 and set aside the same and consequently direct the learned District Munsif cum Judicial Magistrate Peravurani, Thanjavur District to number the further investigation petition filed by the petitioner under Section 193(9)



Crl.O.P.(MD)No.1345 of 2025

of BNSS Act 2023 and old Section 173(8) of Cr.P.C., and include the penal provision of 379 of IPC.

For Petitioner : Mr.P.Rengaraju
For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

The petitioner/defacto complainant had lodged a complaint, based on which, case in Crime No.395 of 2022 for the offences under Sections 294(b), 323, 506(i) and 379 of IPC was registered. Thereafter, on completion of investigation, charge sheet has been filed in STC.No.263 of 2024 for the offences under Sections 294(b) and 506(i) of IPC deleting 323 and 379 of IPC. He further submitted that the trial Court before taking cognizance dropping of such Sections, ought to have issued notice to the petitioner seeking for any objection/protest, but in this case, it was not done so. The trial Court had taken cognizance of case and assigned STC number, knowing about the same later, the petitioner had filed a petition seeking for further investigation and to include deleted Sections 323 and 379 of IPC, but the petition was returned on 27.12.2024 for the reason that under what provision this petition has been filed and further, after taking cognizance and summon has been issued to the accused, this petition cannot be entertained.



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2. The learned Additional Public Prosecutor submitted that in this case, trial is yet to be commenced, at this stage, the petitioner being the defacto complainant can very well file a petition under Section 173(8) of Cr.P.C., for further investigation and he has also entitled to be heard for the Sections, which have been dropped.

3. Considering the submissions and perusal of materials, it is seen that the substance prayer of the petitioner to be considered and the trial Court not to stand on technicalities. There might be wrong quoting provision, it does not deny the petitioner's right of seeking relief before the Court. In this case, before dropping Sections, no notice has been served to the petitioner. Now, the admitted position that summon has been served, no charges have been framed. In view of the same, the petitioner is entitled to file a petition seeking further investigation. The trial Court to direct the respondent police to conduct further investigation in this case and include the Section, if sufficient materials found and offence is made out, thereafter to proceed with the trial. The petitioner to appear before the respondent police and produce the document in support of his contention. Till such time, the trial in STC.No.263 of 2024 pending on the file of the learned District Munsif cum Judicial Magistrate, Peravurani, Thanjavur



Crl.O.P.(MD)No.1345 of 2025

District, to be kept in abeyance. Further investigation to be completed within a period of two months.

4. With the above direction, this Criminal Original Petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

24.01.2025

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

Rmk

NOTE: Registry to return the original paper filed along with this petition to the petitioner.

To

- 1.The Superintendent of Police,
Thanjavur District.
- 2.The Deputy Superintendent of Police,
Peravurani Sub-Division,
Thanjavur District.
- 3.The Inspector of Police,
Thiruchitrambalam Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.1345 of 2025

M.NIRMAL KUMAR,J.

Rmk

Crl.O.P.(MD)No.1345 of 2025

24.01.2025