



Crl.OP(MD)No.3286 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD)No.3286 of 2024

and

Crl.M.P.(MD).Nos.2599 and 2600 of 2024

R.Sargunam @ Surgunam

... Petitioner

Vs.

1. State of Tamil Nadu, rep. by,
The Inspector of Police,
Rajathani Police Station,
Theni District.

(Crime No.187 of 2022) ... 1st Respondent/Complainant

2. Prasath Kumar

... 2nd Respondent/Defacto Complainant

PRAYER :Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records relating to the charge sheet in C.C.No.421 of 2022 pending on the file of the learned Judicial Magistrate, Andipatti and to quash the same insofar as the petitioner is concerned.

For Petitioner : Mr. N. Rajasekar

For R-1 : Mr. B. Thanga Aravindh,
Government Advocate (Crl. Side)

For R-2 : No appearance



WEB COPY



Crl.OP(MD)No.3286 of 2024

ORDER

Preface:

The petitioner, arrayed as an accused in C.C.No.421 of 2022 on the file of the learned Judicial Magistrate, Andipatti, seeks quashment of the final report arising out of Crime No.187 of 2022, Rajathani Police Station, Theni District, registered for the offences under Sections 353 and 506(i) of the Indian Penal Code.

2. The core submission is that, even if the allegations in the final report are taken at their face value, the essential ingredients of the aforesaid offences are not disclosed; and therefore, continuation of the prosecution would be an abuse of process of law, warranting interference under Section 528 BNSS.

Case of the Prosecution:

3. The prosecution version, as reflected in the final report, may be summarised thus:

On 13.09.2022, at about 05.00 p.m., the *defacto* complainant, stated to be a public servant, went to the petitioner's village for



Crl.OP(MD)No.3286 of 2024

serving notice in connection with the conduct of a by-election to the vacant post of Vice President. At that time, the petitioner allegedly questioned the *defacto* complainant with reference to the non-issuance of a house tax receipt to one Suresh and allegedly quarrelled with him.

4. It is further alleged that at about 06.00 p.m., when the *defacto* complainant was waiting at the village bus stop to board a bus, the petitioner again came there, quarrelled and threatened him, and is also stated to have “plugged”/snatched the mobile phone of the *defacto* complainant. On these allegations, the case came to be registered, investigated, and a final report was laid for the offences under Sections 353 and 506(i) IPC.

Grounds for quash:

5. The principal grounds urged by the petitioner are:

(i) The allegations, at best, disclose a wordy altercation and do not satisfy the statutory elements of “assault” or “criminal force” so as to attract Section 353 IPC.



(ii) The alleged words attributed to the petitioner do not, by themselves, amount to criminal intimidation under Section 506(i) IPC, since the element of intention to cause alarm is absent.

(iii) The prosecution, if allowed to proceed, would convert a grievance arising out of a civic demand (issuance of a receipt) into a criminal prosecution lacking foundational ingredients.

Submissions on behalf of the petitioner:

6. The learned counsel for the petitioner submitted that a careful reading of the final report would show that there is no allegation of assault, gesture, preparation, or use of force causing apprehension of use of criminal force, as required by the scheme of Sections 349 to 351 IPC, which inform the meaning of “assault” and “criminal force” for the purpose of Section 353 IPC.

7. As regards Section 506(i) IPC, the learned counsel submitted that the alleged utterance is vague and not shown to have been made with the intention to cause alarm. Reliance was placed on the



decision of this Court in **S. Selva Kumar v. State**¹ to contend that mere expression of words, without intention to cause alarm, would not constitute criminal intimidation.

Submissions on behalf of the Prosecution:

8. Per contra, the learned Government Advocate (Criminal Side) submitted that the *defacto* complainant is a public servant and the incident is alleged to have occurred while he was discharging official work connected with the election process. It was contended that the petitioner not only threatened the *defacto* complainant but also interfered with him and used criminal force by dealing with the mobile phone, and hence, the charge under Section 353 IPC is justified. It was further contended that the words used by the petitioner, in the factual setting pleaded, would attract Section 506(i) IPC and therefore the petition deserves dismissal, leaving the petitioner to face trial.

¹ 2015 (4) CTC 109



Crl.OP(MD)No.3286 of 2024

WEB COPY

Point for consideration:

9. The point that arises for consideration is whether the allegations contained in the final report and the materials relied upon, even if accepted in full, disclose the essential ingredients of the offences under Sections 353 and 506(i) IPC, warranting continuation of prosecution; or whether the proceedings are liable to be quashed under Section 528 BNSS as an abuse of process?

Analysis:

10. This Court has considered the materials placed and the submissions made. At the stage of quashment, the exercise is not to weigh the evidence as in trial, but to examine whether the basic ingredients of the alleged offences are disclosed from the prosecution materials, taken at face value.

11. Section 353 IPC is attracted when there is assault or use of criminal force to deter a public servant from discharge of his duty. The statutory expressions “assault” and “criminal force” are not



Crl.OP(MD)No.3286 of 2024

empty labels, but their content is informed by the definitional provisions contained in the Penal Code.

12. Assault under Section 351 IPC requires a gesture or preparation which is intended or known to be likely to cause apprehension that criminal force is about to be used. Importantly, the explanation clarifies that mere words do not amount to assault, though words may give meaning to gestures or preparations.

13. Criminal force under Section 350 IPC requires intentional use of force to another without consent, with the purpose of committing an offence, or with the intent/knowledge of causing injury, fear, or annoyance.

14. In the case on hand, the prosecution narration substantially speaks of: (i) a quarrel at about 05.00 p.m. regarding non-issuance of a house tax receipt (ii) a subsequent quarrel at about 06.00 p.m. at the bus stop and (iii) alleged threatening words and (iv) dealing with the mobile phone of the *defacto* complainant.



WEB COPY

15. Significantly, the final report, as placed, does not disclose:
(i) any gesture or preparation causing apprehension of imminent use of criminal force (ii) any allegation of the petitioner having used force within the meaning of Section 349 IPC so as to constitute “criminal force” under Section 350 IPC or (iii) any particulars suggesting assault or use of criminal force directed at the body of the *defacto* complainant in the execution of duty.

16. The allegation regarding the mobile phone, even taken at face value, is not pleaded with such particulars as would, by itself, satisfy the legal threshold of “criminal force” against the public servant so as to bring the act within Section 353 IPC, especially when the foundational element, assault or criminal force to deter discharge of duty is not clearly made out from the prosecution narrative. Therefore, on the prosecution materials as they stand, the essential ingredients of Section 353 IPC are not disclosed in a manner sufficient to warrant a criminal trial.



WEB COPY

17. The offence of criminal intimidation requires a threat with intent to cause alarm, or to cause the victim to do an act he is not legally bound to do, or to omit an act he is legally entitled to do.

18. This Court, in **S. Selva Kumar v. State²**, has reiterated that to attract Section 506 IPC, the prosecution must disclose, at the least, the element of intention to cause alarm, and that mere utterances, absent such intention and contextual particulars, may not constitute criminal intimidation.

19. In the present case, the words attributed to the petitioner are stated in a broad manner (for instance, “I will not spare you”), without any elaboration as to: (i) the nature of the threatened injury (ii) the object behind the threat (iii) the manner in which the threat was intended to cause alarm or (iv) any consequent conduct of the *defacto* complainant indicating alarm or compulsion.

² 2015 (4) CTC 109



Crl.OP(MD)No.3286 of 2024

WEB COPY

20. When the allegation is examined in the surrounding narrative, namely, a dispute concerning issuance of a receipt and a verbal altercation, this Court is unable to discern the necessary statutory ingredient of criminal intimidation, as a prosecutable offence under Section 506(i) IPC, from the materials relied upon.

21. In such circumstances, compelling the petitioner to undergo the ordeal of trial would not advance the ends of justice but would amount to permitting a prosecution to continue despite the absence of foundational ingredients.

22. The criminal process is a serious instrument, it cannot be permitted to proceed on allegations that, even if accepted in entirety, do not satisfy the legal ingredients of the offences invoked. Where the very substratum of the offences under Sections 353 and 506(i) IPC is not made out from the final report materials, this Court would be justified in exercising its jurisdiction under Section 528 BNSS to prevent abuse of process and to secure the ends of justice.



Crl.OP(MD)No.3286 of 2024

WEB COPY

23. In the result, this Criminal Original Petition is allowed. The charge sheet in C.C.No.421 of 2022 on the file of the learned Judicial Magistrate, Andipatti, arising out of Crime No.187 of 2022 on the file of the first respondent police, is quashed insofar as the petitioner is concerned. Consequently, the connected Criminal Miscellaneous Petitions are closed.

17.12.2025

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

To

- 1.The Judicial Magistrate,
Andipatti.
- 2.The Inspector of Police,
Rajathani Police Station,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.OP(MD)No.3286 of 2024

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)No.3286 of 2024

17.12.2025