



Crl.R.C.(MD)No.648 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.R.C.(MD)No.648 of 2025

and

Crl.M.P(MD)No.7184 of 2025

C.Manikandan

... Petitioner/Petitioner/
Accused No.2

Vs.

The State of Tamil Nadu, rep.by
The Sub Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.

... Respondent/Respondent/
Complainant

PRAYER : Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C, to 438 r/w 442 of BNSS, to call for the records and to set aside and revise the order of the learned District Munsif cum Judicial Magistrate, Boothapandi, Kanyakumari District as made in Crl.M.P.No.1 of 2024 in C.C.No.188 of 2022, dated 28.03.2025 forthwith.

For Petitioner : Mr.Selvin Abeesh
for Mr.S.Palanivelayutham

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

Challenging the order passed by the learned District Munsif cum Judicial Magistrate, Boothapandi, Kanyakumari District in Crl.M.P.No.1 of 2024 in C.C.No.188 of 2022, dated 28.03.2025, this criminal revision case has been preferred by the Accused No.2, who is the petitioner herein.

2. The case of the prosecution is that the accused persons and LW1, LW2 and LW3 are the natives of Eraviputhoor near Kadukkarai Village. On 22.08.2020 at about 14.45 hours, when L.W.1 accompanied by L.W.2 were proceeding to his house, A.1 and A.3, namely Kolappan and Chellampillai wrongfully restrained them and used filthy languages and indulged in a hustle, following which A.1 picked up a brick and assaulted L.W.1 with the brick on his back head and again assaulted him with wooden log on his right shoulder and caused injury. A.3 / Chellampillai assaulted L.W.1 by hand on his chest and caused simple injury. Both the accused persons used filthy language against them. Based on the complaint lodged by the L.W.1, Boothapandy police has



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registered a case against the accused persons for the offences under Sections 294(b), 323, 324, 341 and 506(1) of IPC. After conducting investigation, the respondent police filed a charge sheet against A.1, A.2 and A.3. In the charge sheet, overt act has been attributed as against A.1 and A.3 and the revision petitioner was implicated as A.2 for the offences under Section 294(b), 323, 324, 341 and 506(ii) of I.P.C. At this stage, the petitioner had filed a discharge petition under section 239 of the Code of Criminal Procedure, which came to be dismissed by the impugned order dated 28.03.2025. Challenging the same, this criminal revision case is filed.

3. The learned counsel for the petitioner submitted that no specific overt act has been attributed as against A.2 who is the petitioner herein. Neither in the F.I.R nor in the final report, none of the incidents narrated would reveal the involvement of the petitioner herein. The final report clearly reveal that it is only Kolappan and Chellampillai, who had indulged in picking up quarrel with the defacto complainant and had also attacked them and the petitioner being the son of the said Chellampillai, he has been falsely implicated in the case and this could be substantiated



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from the 161 (3) Cr.P.C statement of the defacto complainant where he had clearly stated that the petitioner herein came to the scene of occurrence only after the said incident. It is only because of the failure on the part of the revision petitioner from preventing the said incident, the defacto complainant had included the name of the revision petitioner in the complaint. However, the learned Trial Court has lost sight to appreciate this fact and had proceeded to dismiss the discharge petition.

4. The learned Additional Public Prosecutor fairly conceded that 161(3) Cr.P.C statement is in line of the arguments substantiated by the learned counsel for the petitioner. However, the learned Trial Court in the impugned order had made an observation that the involvement of the petitioner herein could be decided only after letting evidence by the prosecution as well as defence side and on that premise, had dismissed the discharge petition.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and carefully perused the materials available on record.



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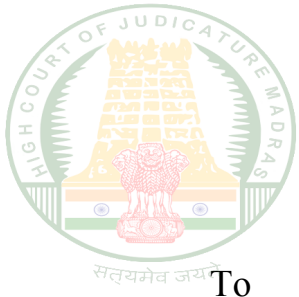
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6. No doubt, a careful reading of the F.I.R and the final report would clearly reveal that no specific overt act could be attributed as against the revision petitioner herein. That apart, the 161(3) Cr.P.C statement given by the defacto complainant itself would make it clear that the petitioner had visited the scene of occurrence only after the completion of the alleged incident, for which the criminal case has been registered. Accordingly, I do not find any merit in the order passed by the learned Trial Court in rejecting the discharge petition. In final, the impugned order, dated 28.03.2025 is hereby set aside. The petitioner is discharged in C.C.188 of 2022 from being implicated as A.2.

7. Accordingly, this Criminal Revision Case is allowed. Consequently, connected Miscellaneous Petition is closed.

11.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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- 1.The District Munsif cum Judicial Magistrate,
Boothapandi, Kanyakumari District.
- 2.The Sub Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI ,J.

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Order made in
CrI.R.C.(MD)No.648 of 2025

Dated: 11.06.2025