



Crl.O.P.(MD)No.11184 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.07.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.11184 of 2025

1. Karthikeyan
2. Raja
3. Sountharapandi
4. Parameshwaran
5. Ramanathan

... Petitioners

versus

1. The Deputy Superintendent of Police,
Dindigul,
Dindigul District.
2. The State of Tamil Nadu rep. by
The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.

3. Palanikumar

...Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the charge sheet in Spl.S.C.No.62 of 2023 pending on the file of the Special Court for SC/ST Act Cases, Dindigul and quash the same as against the petitioners.

For Petitioner : Mr.G.Karuppasamy Pandiyan

For R1 and R2 : Mr.A.S.Abul Kalaam Azad,
Government Advocate (Crl. Side)



CrI.O.P.(MD)No.11184 of 2025

WEB COPY

ORDER

The petitioners, who are accused Nos.1, 2, 5, 7 and 12, are facing trial in Spl.S.C.No.62 of 2023 on the file of the Special Court for SC/ST Act Cases, Dindigul, for the offence under Sections 147, 148, 294(b), 326, 336, 307 IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and Section 3(1) of TNPPDL Act. Therefore, they moved this petition seeking to quash the proceedings in Spl.S.C.No.62 of 2023 which is pending against them.

2. The respondent Police has registered a case in Crime No.42 of 2019 for the offence under Sections 147, 148, 294(b), 326, 336, 307 IPC and Sections 3(1)(r), 3(1)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 and Section 3(1) of TNPPDL Act. Therefore, the case was investigated by the Deputy Superintendent of Police, Dindigul and the final report was also filed before the Special Court for SC/ST Act Cases, Dindigul and the same is pending in Spl.S.C.No.62 of 2023.

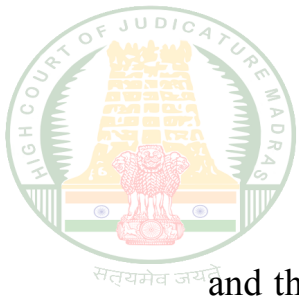


CrI.O.P.(MD)No.11184 of 2025

WEB COPY

3. The learned counsel appearing for the petitioners submits that the second petitioner is a victim of the occurrence and therefore, he has lodged a separate complaint as against the 2nd respondent/defacto complainant and others, based on which, a counter case has also been registered in Crime No. 43 of 2019 for the offence under Sections 147, 148, 294b, 324, 506(ii) and Sections 3 and 7 of TNPPDL Act. The cases in Crime No.42 and 43 of 2019 are registered as a case and counter case. Therefore, the investigation in both the cases has to be conducted by the same investigating officer. However, in this case, the investigation in Cr.No.42 of 2019 was conducted by the Deputy Superintendent of Police, Dindigul. He further submits that the respondent Police has not conducted any investigation in the counter case in Crime No.43 of 2019.

4. The learned counsel for the petitioners, by relying on the guidelines issued by the Hon'ble Full Bench in ***Balaji and another vs. the Inspector of Police, New Washermenpet Police Station, Chennai***, submits that when the cases are registered as a case and counter case, then, the investigation has to be conducted by the same investigation officer to find out the truth, who is the aggressor. But, the respondent police has not followed the guidelines issued by the Hon'ble Full Bench as stated supra



Crl.O.P.(MD)No.11184 of 2025

WEB COPY

and they have not conducted any investigation in the counter case in Crime No.43 of 2019.

5. The learned Government Advocate (Crl. Side) submits that the case in Crime No.43 of 2019 has also been investigated and the final report has also been filed before the learned Judicial Magistrate, Nilakottai, through e-filing on 04.03.2025 and the same is yet to be taken on file.

6. With regard to the other grounds raised by the petitioners, the learned Government Advocate (Crl. Side) submits that the case registered as against the petitioners is under the provision of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and as per Rule 7 of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, the investigation in the cases registered under the provision of Rule 7 of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act has to be conducted by a Deputy Superintendent of Police. Therefore, a separate investigation was conducted at the level of Deputy Superintendent of Police in the case registered against the petitioner in Crime No.42 of 2019. The investigation in Crime No.43 of 2019 has been conducted by the Inspector of Police, Pattiveeranpatti Police Station, Dindigul and the final



CrI.O.P.(MD)No.11184 of 2025

WEB COPY

report has also been filed before the learned Judicial Magistrate, Nilakottai.

7. This Court considered the rival submissions made and perused the materials placed on record.

8. If the cases are registered as a case and counter case, the Police Standing Orders prescribe certain procedures for conducting the investigation by the same investigation officer and that has also been answered by the Full Bench of this Court in ***Balaji and another vs. the Inspector of Police, New Washermenpet Police Station, Chennai***, as under:

“59. In the light of the above discussion, the following are our answers to the questions referred to us vide order dated 21.03.2024:

a. The police are required to mandatorily follow the procedure prescribed in PSO 566 while investigating a case and case in counter ie., rival versions of the same incident.

b. The consequences of non-compliance with PSO 566 would depend upon the stage at which such an objection is raised. It is the duty of the Magistrate to screen out final reports which are filed in inconsistent rival versions of the same incident ie., where one rival version is true the other must be necessarily false, by returning with a direction to



follow PSO 566. Where the Magistrate inadvertently takes cognizance, the error may be set right by the High Court under Section 528 BNSS, 2023 if the same is raised at an early stage. If, however, the trial in such cases is allowed to go on and has reached an advanced stage, a plea of non-compliance with the PSO will not ipso facto vitiate trial unless and until a demonstrable case of prejudice or miscarriage is made out.

c. The police will take note of and scrupulously follow the guidelines set out in paragraph 58-A, supra.

d. Trial of a case and counter case shall be held simultaneously before the same Court and the guidelines set out in paragraph 58-B supra, shall be followed.”

9. Further the Hon'ble Full Bench has laid down a guideline in para 58(b) of the Judgment with regard to the post cognizance and trial in a case and case in counter and the same reads as under:

“58. (b) Post Cognizance and Trial in a case and case in counter:

i. If the Magistrate finds that the two final reports are rival versions of the same incident, but both parties are found to have engaged in acts of aggression etc., he may take cognizance of both final reports. In such cases, the Magistrate shall follow the procedure prescribed in ***Ekambaram v. Sundaramurthy and State***, 1988 LW (Cri)



WEB COPY



CrI.O.P.(MD)No.11184 of 2025

127, which we have extracted in paragraph 56, supra.

ii. If one case is exclusively triable by a Court of Sessions and the other case is triable by a Magistrate, the Magistrate shall commit both the case and counter case to the Court of Session for trial as prescribed by Section 362 BNSS 2023 (Section 323 Cr.P.C.), who shall thereafter proceed in accordance with the directions contained in paragraph 56 supra.

10. In this case, the case in Crime No.42 of 2019 registered as against the petitioners is under the provisions of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Rule 7 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules mandates that an offence committed under the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. Therefore, the investigation in Crime No.42 of 2019 has to be conducted by a Deputy Superintendent of Police. Since the case in Crime No.43 of 2019 is registered as a counter case, this Court cannot expect the investigation in Crime No.43 of 2019 has to be conducted by the very same Deputy Superintendent of Police. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is a special Act. Since the investigation in



CrI.O.P.(MD)No.11184 of 2025

WEB COPY

Crime Nos.42 and 43 of 2019 has been conducted by two different officers, pursuant to the provisions under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, this Court cannot find fault with the investigation officer, who conducted the investigation in Cr.No.43 of 2019.

11. However, the object of conducting the investigation in both the cases by the same officer is to find out who is the aggressor. The trial in Crime No.42 of 2019 is yet to commence. Therefore, the final report in Crime No.43 of 2019 has to be tried by the Special Court for SC/ST Act Cases, Dindigul.

12. Accordingly, this Criminal Original Petition is disposed of with a direction to the learned Judicial Magistrate, Nilakottai, to commit the case in Crime No.43 of 2019, once the charge sheet is taken on file, to the Special Court for SC/ST Act Cases, Dindigul. The Special Court for SC/ST Act Cases, Dindigul, shall conduct the trial separately and find out who is the real aggressor and take further course of action.

03.07.2025

NCC : Yes/No
Index : Yes/No
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CrI.O.P.(MD)No.11184 of 2025

WEB COPY

To

1. The Special Court for SC/ST Act Cases,
Dindigul.
2. The Judicial Magistrate Court,
Nilakottai.
3. The Deputy Superintendent of Police,
Dindigul,
Dindigul District.
4. The Inspector of Police,
Pattiveeranpatti Police Station,
Dindigul District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.11184 of 2025

B.PUGALENDHI, J.

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Crl.OP(MD)No.11184 of 2025

03.07.2025