



Crl.O.P.(MD)No.12713 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.07.2025

CORAM :

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl.OP(MD)No.12713 of 2025
and Crl.M.P.(MD)Nos.9957 and 9959 of 2025

C.Jebin

... Petitioner

versus

1. The State of Tamil Nadu, Rep. by
The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.

2. Rejinald

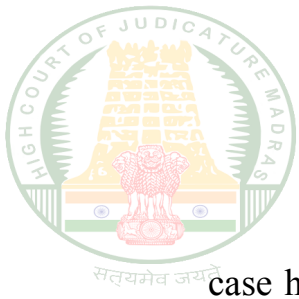
...Respondents

Prayer : Criminal Original Petition filed under Section 528 of BNSS, to call for the records in S.C.No.354 of 2023 on the file of the learned District Munsif cum Judicial Magistrate, Boothapandi and set aside the same against the petitioner.

For Petitioner : Mr.SC.Herold Singh
For R1 : Mr.A.S.Abul Kalaam Azad
Government Advocate (Crl. Side)

ORDER

The petitioner is the first accused in S.C.No.354 of 2023 on the file of the learned District Munsif cum Judicial Magistrate, Boothapandi. The said



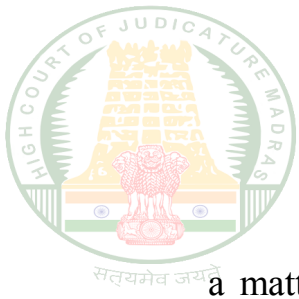
Crl.O.P.(MD)No.12713 of 2025

WEB COPY

case has been registered on the file of the respondent Police, as against the petitioner in Crime No.281 of 2022 for the offence under Sections 294(b), 341, 323, 307 and 506(ii) IPC. The Investigation Agency, after completing the investigation, filed the final report, which was committed to the Court of Sessions and it is now pending before the learned District Munsif cum Judicial Magistrate, Boothapandi, in S.C.No.354 of 2023. The petitioner has moved this petition to quash the proceedings in S.C.No.354 of 2023 pending against him on the ground that the nature of injury suffered by the victim is simple in nature.

2. The learned counsel for the petitioner, by referring to the wound certificate and the evidence of the doctor, submits that the nature of injury suffered by the victim is simple in nature, however, the respondent Police has registered a case in a mechanical manner and has filed the final report for the offence under Section 307 IPC.

3. The learned Government Advocate (Crl. Side), who takes notice for the respondent Police, submits that the seat of injury is at the head and the alleged weapon used by the accused is a wooden log. Whether the accused have intentionally committed an offence to kill the victim or not, is



Crl.O.P.(MD)No.12713 of 2025

WEB COPY

a matter of evidence. The learned Government Advocate (Crl. Side) has also relied upon a Judgment of the Hon'ble Supreme Court in ***Hari Mohan Mandal Vs. State of Jharkhand*** reported in ***CDJ 2004 SC 482***.

4. This Court considered the rival submissions made.

5. In the Judgment of the Hon'ble Supreme Court in ***Hari Mohan Mandal Vs. State of Jharkhand*** reported in ***CDJ 2004 SC 482***, relied on by the learned Government Advocate (Crl. Side), the Hon'ble Supreme Court has held as follows:

“14. Whether there was intention to kill or knowledge that death will be caused is a question of fact and would depend on the facts of a given case. The circumstance that the injury inflicted by the accused was simple or minor will not by itself rule out application of Section 307 IPC. The determinative question is intention or knowledge, as the case may be, and not nature of the injury.”

6. In view of the said position of law, this Court is not inclined to entertain this petition. Accordingly, this Criminal Original Petition is dismissed with liberty to the petitioner to raise all the grounds before the trial Court. The trial Court shall consider the case independently with the



Crl.O.P.(MD)No.12713 of 2025

WEB COPY

available evidence and to take a decision in accordance with law.

Consequently, connected miscellaneous petitions are closed.

7. This Court places its appreciation to the learned Government Advocate (Crl. Side), who has prepared well even at the stage of admission.

8. At this juncture, the learned counsel for the petitioner submits that the petitioner is working in the Indian Army and therefore, it is very difficult for him to appear before the trial Court for each and every hearing.

9. The petitioner can raise this plea before the trial Court along with the documents. The trial Court shall consider the same and take a decision under Section 228 of BNSS.

29.07.2025

NCC : Yes/No

Index : Yes/No

Internet: Yes

ogy



CrI.O.P.(MD)No.12713 of 2025

WEB COPY

To

1. The learned District Munsif cum Judicial Magistrate,
Boothapandi.
2. The Inspector of Police,
Boothapandi Police Station,
Boothapandi,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.12713 of 2025

B.PUGALENDHI, J.

ogy

Crl.OP(MD)No.12713 of 2025

29.07.2025