



Crl.O.P.(MD)No.18979 of 2024

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.18979 of 2024

and

Crl.M.P.(MD).No.11747 of 2024

Samudhiram

... Petitioner

Vs.

1.State of Tamilnadu rep. by, its,
The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
(In Crime No.329 of 2024)

2.Saminathan

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the case in Crime No.329 of 2024, dated 07.10.2024 on the file of the first respondent Police and to quash the same insofar as the petitioner/Accused No.1 is concerned.

For Petitioner : Mr.P.Balamurugan

For Respondent : Mr.M.Sakthi Kumar, (for R1)

Government Advocate (Crl.Side)



Crl.O.P.(MD)No.18979 of 2024

ORDER

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This petition is filed to quash the case in Crime No.329 of 2024, dated 07.10.2024 on the file of the first respondent Police, insofar as the petitioner/Accused No.1 is concerned, which was filed for the offences under Sections 296(b), 132, 125 and 126(2) of BNS, Act, 2023 and Section 3(1) of Prevention of Damage to Public Property Act, 1984.

2.The case of the prosecution is that the property in S.No.126/1 belongs to the Madukkur Panchayat Union. Therefore, the panchayat officials tried to put up a construction Pulavanji Village Panchayat building at the said land. In that regard, already proceedings has been issued by the officers of the local authorities. On that basis, the construction work was conducted on 28.09.2024, at about 11.00 a.m., at that time, the petitioner and other accused persons damaged the construction and tried to attack the panchayat officials by using brick stone and also abused the panchayat officials with filthy language. Hence, the present complaint has been registered against the petitioner and other accused persons.

3.The learned counsel for the petitioner submitted that, with respect to the proceedings passed by the local authorities sanctioning the construction of



Crl.O.P.(MD)No.18979 of 2024

the Pulavanji Village Panchayat building, the petitioner had already approached this Court by filing a writ petition seeking to forbear the Pulavanji Village Panchayat authorities from proceeding with the construction. This Court dismissing the same, directed the petitioner to work out his remedy before the appropriate civil court. Pursuant to which, the petitioner had filed a civil suit in O.S.No.120 of 2024 on the file of the District Munsif Court, Pattukottai. Despite the pendency of the said civil suit, the panchayat officials had commenced and continued the construction. He further submitted that even assuming the allegations in the prosecution case to be true, no offence is made out under Sections 296, 132, 125, and 126(2) of the Bharatiya Nyaya Sanhita. Hence, the learned counsel sought the indulgence of this Court.

4.Per contra, the learned Government Advocate (Criminal Side), on instructions, submitted that the petitioner had never challenged the proceedings sanctioning the construction of the Pulavanji Village Panchayat building at any point of time. Under such circumstances, the respondent authorities proceeded with the construction of the building. Even in the writ petition filed by the petitioner, this Court had directed him to approach the civil court, pursuant to which the petitioner filed a civil suit. However, the petitioner has not obtained any order of injunction. Only then, the construction commenced and continued.



Crl.O.P.(MD)No.18979 of 2024

He further submitted that the petitioner, along with the other accused persons, wilfully frequented the construction site, picked up quarrel, and damaged the ongoing construction. Hence, the offence under Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act is clearly attracted. Since they had stopped and obstructed the ongoing construction of the Pulavanji Village Panchayat building, the offences under Sections 296(b), 132, 125, and 126(2) of BNS Act, 2023, are also attracted. The abusive words allegedly used by the accused have been clearly narrated in the First Information Report. Hence, he sought for dismissal of this petition.

5.Heard the learned counsel on either side and perused the materials available on records.

6.The Learned counsel for the petitioner relying upon the judgment passed by the Honorable High Court of Bombay at Aurangabad in the case of *Amer Khan Vs. the State of Maharashtra and others*¹ pointed out that the provision under Section 353 of IPC has been enacted to make sure that public servant is not being obstructed or deterred from performing his lawful duties and by no stretch of imagination same can be allowed to become a tool in hand, of unscrupulous persons to cover up outright illegality as done in the present

¹ CDJ 2023 BHC 938



Crl.O.P.(MD)No.18979 of 2024

case. In order to attract the offence under Section 353 of IPC, there must exist element of lawful discharge of duties by public servant, which is absent herein.

In the facts of the case, where no cognizable offence is made out against the applicant, to continue criminal prosecution on the basis of apparently frivolous and malicious complaint will be an abuse of process of law.

7.However, this Court is of the considered view that the proceedings of the local authorities and the construction of Pulavanji village Panchayat building itself would amount to performing of lawful duties, which was hindered and obstructed by the petitioner and would clearly make out the ingredients Sections 296(b), 132, 125 and 126(2) of BNS, act, 2023 is attracted.

8.Accordingly, this Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous petition is closed.

17.12.2025

NCC : Yes / No
Index : Yes / No
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Crl.O.P.(MD)No.18979 of 2024

TO:-

- 1.The Inspector of Police,
Madukkur Police Station,
Thanjavur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.18979 of 2024

L.VICTORIA GOWRI, J.

vsg

Order made in
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Dated
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