



Crl. O.P.(MD) No. 14576 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

**Crl. O.P. (MD) No. 14576 of 2025
and
Crl.M.P.(MD) Nos.11844 & 11846 of 2025**

I.Asraf Ali

... Petitioner

Vs

S. Sheik Dharik

... Respondent

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 to call for the records pertaining to the case in Crl.M.P. No. 9663 of 2024 on the file of the Learned Judicial Magistrate No.II, Ramanathapuram and quash the same as against the petitioner.

For petitioner : Mr. R.Anand

ORDER

The petitioner challenges the pre-cognizance notice issued by the learned Magistrate on the complaint given by the respondent under Sections 499 r/w 500



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WEB COPY of IPC (356, 356(2) BNS, 2023).

2. The learned counsel for the petitioner would submit that the complaint does not disclose the offence under Section 499 of IPC and that in any case, it would fall within explanation 5 to Section 499 of IPC; and that even at cognizance stage, the learned Magistrate ought to have considered the said fact.

3. Admittedly, the learned Magistrate has not so far taken cognizance. The case is at the pre-cognizance stage. *Proviso* to section 223 sub-class 1 of BNSS, 2023 states that the learned Magistrate shall not take cognizance without giving an opportunity of being heard. The said opportunity has not been afforded to the petitioner. Hence, it is open for the petitioner to either appear in person or through his counsel and put forth his case before the learned Magistrate. It is needless to say that the learned Magistrate may consider the same and pass suitable orders as regards the cognizance, taking into consideration such submissions, that may be made on behalf of the petitioner. Hence, there is no necessity to quash the impugned notice at this stage.



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4. With the above observation, this Criminal Original Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes / No
apd

04.09.2025

To

1. The Additional Public Prosecutor
Madurai Bench of Madras High Court, Madurai



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SUNDER MOHAN, J.

apd

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