



Crl.O.P.(MD) No.18463 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.18463 of 2025

and

Crl.M.P.(MD) Nos.15202 & 15204 of 2025

Bharathirajan

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The Inspector of Police,
Pavoorchathiram Police Station,
Tenkasi District.
Crime No.495 of 2019

2.L.Chinnadurai
Sub-Inspector of Police,
Pavoorchathiram Police Station,
Tenkasi District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the charge sheet in S.T.C.No.309 of 2020 pending on the file of the learned Judicial Magistrate, Tenkasi and quash the same as against the petitioner.

For Petitioner : Mr.G.Karuppasamypandiyan



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For R1

: Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the impugned report in S.T.C.No.309 of 2020 pending on the file of the learned Judicial Magistrate, Tenkasi, filed against the petitioner for the offences punishable under Sections 294(b) and 353 of the Indian Penal Code, 1860.

2. The allegation in the final report is that the petitioner parked his two-wheeler in a public place in such a manner as to cause nuisance to the general public; that when the second respondent, Sub-Inspector of Police, along with other police officers, asked the petitioner to move away from the place, the petitioner abused them in filthy language and further threatened them, stating that he would insult them by taking action against them.

3. The learned counsel for the petitioner would submit that the allegations would not constitute the alleged offences; that there is neither any obscene act committed nor any obscene words uttered by the



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petitioner so as to attract the offence under Section 294(b) of the Indian Penal Code, 1860; that there is no use of criminal force by the petitioner to attract the offence under Section 353 of the Indian Penal Code, 1860; and that the allegations, at best, would amount to a defamatory statement against the respondents; and that, in any event, the impugned prosecution is mala fide. He would further submit that the petitioner was attacked by the second respondent on 30.10.2019 at the police station; that thereafter, the petitioner underwent treatment from 31.10.2019 to 04.11.2019; that the petitioner had filed a complaint before the State Human Rights Commission; and that, by an order dated 19.10.2022, the State Human Rights Commission, having found the petitioner's complaint to be genuine, directed the Additional Chief Secretary to the Government, Home Department, to pay a sum of Rs.3,00,000/- to the petitioner as compensation and recover the same from some of the police officers concerned.

4. The Government Advocate (Criminal Side) for the first respondent would fairly submit that there was an order passed by the State Human Rights Commission as submitted by the learned counsel for the petitioner.



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WEB COPY 5. This Court finds from the impugned final report that the allegation is that the petitioner was asked to remove his two-wheeler from the public road, but he refused to do so, abused the second respondent/defacto complainant and other police officers in filthy language, and also threatened them by stating that he would take action against them by filing complaints. There is no allegation to attract the offence under Section 294(b) of the Indian Penal Code, 1860. In order to prosecute a person for an offence under Section 294(b) of the Indian Penal Code, the act of the person must be obscene, or the words uttered by him must be obscene. In this regard, reference is made to the judgment of the Hon'ble Supreme Court in ***N.S.Madhanagopal and Another v. K. Lalitha***, reported in (2022) 17 SCC 818. The relevant portion reads as follows:

“8. It has to be noted that in the instant case, the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 294(b). None of the records disclose the alleged words used by the accused. It may not be the requirement of law to reproduce in all cases the entire obscene words if it is lengthy, but in the instant case, there is hardly anything on record. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 294(b) IPC.



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9.To prove the offence under Section 294 IPC mere utterance of obscene words are not sufficient but there must be a further proof of establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the appellants-accused annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out."

The above observations squarely apply to the facts of the case.

6. As regards the offence under Section 353 of the Indian Penal Code, 1860, even according to the respondents, there was no assault or use of criminal force by the petitioner. There was only a wordy quarrel. Therefore, the offence under Section 353 of the Indian Penal Code, 1860, would not be made out.

7. That apart, as rightly pointed out by the learned counsel for the petitioner, on the previous occasion, the petitioner was assaulted by the second respondent and other police officers. The petitioner had filed a complaint before the State Human Rights Commission. The order of the State Human Rights Commission reveals that the petitioner had undergone treatment in the hospital from 31.10.2019 to 04.11.2019.



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Further, the State Human Rights Commission had directed the Chief Secretary to the Government, Home Department, to pay a sum of Rs.3,00,000/- to the petitioner as compensation and recover the same from the concerned police officers. Though it is stated that the aforesaid order of the State Human Rights Commission has been challenged before this Court in W.P.(MD) No.27595 of 2022, this Court is of the view that, considering all the above submissions, no offence would be made out against the petitioner and no useful purpose would be served by keeping the final report pending trial. Thus, the impugned final report is liable to be quashed and is accordingly quashed.

8. In the result, this Criminal Original Petition is allowed.
Consequently, the connected Miscellaneous Petitions are closed.

28.10.2025

JEN
Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

Copy To:

1.The Judicial Magistrate,
Tenkasi.



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2.The Inspector of Police,
Pavoorchathiram Police Station,
Tenkasi District.

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



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SUNDER MOHAN, J.

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