



Crl.O.P.(MD)No.18724 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.10.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.18724 of 2025

and

Crl.MP.(MD).Nos.15502 and 15503 of 2025

Jeya Surya

... Petitioner/Accused No.4

Vs.

1.The State of Tamil Nadu Rep. by,
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
(Crime No.271 of 2023)

... 1st Respondent/Complainant

2.Murugesan,
Serving as Special Sub Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in pursuant to the impugned charge sheet S.C.No.168 of 2024 pending on the file of the learned Principal Sub Judge, Tirunelveli District in Crime No.271 of 2023 on the file of the Thalaiyuthu Police Station, Tirunelveli District and quash the same as far as the petitioner concerned.

For Petitioner : M/s.S.Meena

For R-1 : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed to quash the final report in S.C.No.168 of 2024 on the file of the learned Principal Sub Judge, Tirunelveli District, which was filed against the petitioner for the offence punishable under Section 353 of IPC.

2. The allegation in the final report is that when the second respondent, Sub Inspector of Police, Thalaiyuthu Police Station, along with his team, attempted to apprehend one Subash, arrayed as A1, standing on the road in a suspicious manner, the petitioner and two others, who are his friends, prevented the police from apprehending the said Subash; and that thereafter, the said Subash took a knife and threatened the police, which was videographed by the Sub Inspector of Police.

3. The learned counsel for the petitioner would submit that in the impugned final report, the only charge against the petitioner is under Section 353 of IPC; that there is no allegation that the petitioner used criminal force or assaulted the police so as to attract the offence punishable under Section 353 of IPC; and that, in any case, the allegations against the petitioner are trivial in nature and would be covered under Section 95 of the IPC.



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4. The learned Additional Public Prosecutor for the first respondent would submit that the allegations would attract the offence punishable under Section 353 of IPC, as the petitioner and two others prevented the police from apprehending A1, who was armed with a knife and also threatened the police of dire consequences.

5. Admittedly, no weapon was seized from the petitioner. Even if the allegation against the petitioner is accepted as true, it only suggests that the petitioner had prevented a public servant from apprehending A1. There is no allegation of the use of criminal force or assault by the petitioner. This Court, in similar circumstances, in ***Anbuchelvan @ Anbuselvan vs. State of Tamil Nadu, represented by the Inspector of Police, Thiruppuvanam Police Station and another***, vide order dated 20.12.2024 rendered in Crl.O.P.(MD).No.15357 of 2024, has held as follows:

24. Before entering into further discussion with regard to the offence under Section 353 I.P.C., it is necessary to refer the said section:

353. Assault or criminal force to deter public servant from discharge of his duty.—

Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done



by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

25. The Hon'ble Supreme Court in **Manik Taneja and another Vs. State of Karnataka** reported in (2015)7 SCC 423 has held that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty and the relevant passage is extracted hereunder:

“A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, that the ingredients of the offence under Section 353 IPC are not made out.”

26. In the present case, the prosecution does not specifically allege that the petitioner assaulted or used criminal force against the second respondent with the intention of preventing or deterring him from discharging his duties. Even if there were preparations to use such force, it cannot be considered an assault or use of criminal force aimed at deterring him from performing his duties.



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

For the aforesaid reasons, this Court is inclined to quash the final report in S.C.No.168 of 2024 on the file of the learned Principal Sub Judge, Tirunelveli District as against the petitioner.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

28.10.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm

To

- 1.The Principal Sub Court,
Tirunelveli District.
- 2.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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