



CrI.O.P.(MD)No.23389 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **18.12.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

CrI.O.P.(MD)No.23389 of 2025

and

CrI.M.P.(MD).Nos.20253 and 20254 of 2025

Velmurugan

... Petitioner

Vs.

1.The State of Tamil Nadu Rep. by its,
The Inspector of Police,
Vellichanthai Police Station,
Kanniyakumari District.
(Crime No.166 of 2023)

2.Ponni,
Hindu Religious and Charitable Endowment Department,
Muppanthal,
Thovalai Circle.
Presently working as Executive officer,
Arulmigu Kasivishwanathar Thirukovil,
Tenkasi District.

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023, to call for the impugned charge sheet in C.C.No.181 of 2024 on the file of the learned Judicial Magistrate, Eraniel, filed under Section 427 and 379 of IPC and quash the same.



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For Petitioner : Mr.S.Vashik Ali

For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the proceedings in C.C.No.181 of 2024 on the file of the learned Judicial Magistrate, Eraniel, filed under Section 427 and 379 of IPC.

2.The case of the prosecution is that the temple namely, Arulmigu Easwari Pathirakaliyamman Temple is under the control of Hindu Religious and Charitable Endowment Department. The said temple owns the land comprised in S.No.330/2 measuring to an extent of 0.49.50 Ares situated at Neelangarai B Village. In the said land, due to rain, a tamarind tree had fallen down. In the meantime, the petitioner, along with one Karthikeyan, hired labourers to cut and remove the fallen tree, and the same was transported in a tempo bearing registration No. TN65 C 2922 without permission. Hence, the case has been registered.



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3.The learned counsel appearing for the petitioner submitted that the case is with respect to cutting off tamarind trees from the land comprised in Survey No. 330/2, which belongs exclusively to the petitioner. He further submitted that the patta in respect of the said land stands in the name of the petitioner. While so, one Deepa and others disturbed the petitioner's peaceful possession and enjoyment of the said property. Hence, the petitioner filed a civil suit in O.S. No. 685 of 2007 on the file of the Principal District Munsif Court, Nagercoil, seeking permanent injunction, and the same was decreed on 25.06.2013 in favour of the defendants. Aggrieved by the said decree, an appeal was preferred in A.S. No. 110 of 2014 on the file of the Additional Sub Court, Nagercoil, and the same was allowed in favour of the petitioner on 14.11.2017. As against the said judgment, the defendants have filed a second appeal in S.A. (MD) No. 166 of 2018, which is pending before this Court without any order of injunction or stay. The petitioner is in exclusive possession and enjoyment of the property and has been enjoying the same openly and to the knowledge of everyone without any interruption for the past several years. He further submitted that the offence under Section 379 IPC is not made out, as there was no *mens rea*, and the petitioner had merely disposed of the tree which had fallen down due to rain, while the property itself is exclusively owned and possessed by him. The question of implicating the



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petitioner in a theft case with respect to the removal of a fallen tree does not arise. Hence, he sought for quashing of the charge sheet in the interest of justice.

4.The learned Government Advocate (Crl. Side) on instructions, submitted that since the second appeal is pending before this Court, the petitioner committed the theft of the Tamarind trees, which belongs to the temple. Hence, he prays for dismissal of this Criminal Original Petition.

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

6.On perusal of the various decrees and the pending second appeal, this Court is of the considered view that the respondent police has given a criminal colour to the civil dispute. Therefore, the offences under Sections 427 and 379 IPC are not made out against the petitioner and the impugned proceedings is liable to be quashed.

7.Accordingly, this Criminal Original Petition stands allowed. The impugned proceedings in C.C.No.181 of 2024 on the file of the learned Judicial



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Magistrate, Eraniel is hereby quashed. Consequently, the connected criminal miscellaneous petitions are closed.

18.12.2025

NCC : Yes / No
Index : Yes / No
vsg

TO:-

- 1.The Judicial Magistrate, Eraniel.
- 2.The Inspector of Police,
Vellichanthai Police Station,
Kanniyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

vsg

Order made in
Crl.O.P.(MD)No.23389 of 2025

Dated
18.12.2025