



Crl.O.P.(MD)No.23 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.23 of 2025
and Crl.M.P(MD).Nos.48 and 49 of 2025

- 1.Selvam @ Joseph Bellarmin
- 2.Aswanth @ Asintu @ Aswanth Brandel
- 3.Alan @ Alan Brandel

... Petitioners

Vs.

- 1.State of Tamil Nadu
rep., by the Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
Crime No.473 of 2016

- 2.Sahaya Xavier Arul

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the case registered in Charge sheet in CC.No.277 of 2020 on the file of the learned Judicial Magistrate Court NO.I, Nagercoil, Kanyakumari District and quash the same as illegal so far as this petitioner is concerned.

For Petitioners : Mr.G.Anto Prince



WEB COPY



Crl.O.P.(MD)No.23 of 2025

For R1 : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)

For R2 : Mr.Surya

ORDER

This Criminal Original Petition has been filed, invoking Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking orders to call for the records in C.C.No.277 of 2020 on the file of the learned Judicial Magistrate Court NO.I, Nagercoil, Kanyakumari District, and quash the same as illegal, improper and abuse of process of law.

2. The case of the prosecution is that on 08.10.2016 at about 03.00 pm., when the defacto complaint was loading fish, the accused persons questioned the defacto complainant and also abused, pushed and assaulted him, thereby he sustained injury. Hence, the complaint.

3. The learned counsel appearing for the petitioners would submit that the second respondent lodged a complaint before the first respondent and F.I.R. registered in Crime No.473 of 2016, after investigation, final



Crl.O.P.(MD)No.23 of 2025

report filed, the same taken cognizance in CC.No.277 of 2020 on the file of the learned Judicial Magistrate Court NO.I, Nagercoil, Kanyakumari District, for the offences under Sections 294(b), 506(2) and 352 I.P.C. against the petitioners.

4. The case is under trial. By passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably among themselves. Now, the second respondent is agreeing to withdraw the complaint, not willing to pursue the case.

5. A Joint Memo of Compromise filed before this Court signed by the petitioners and the second respondent and their respective counsels. The petitioners and the second respondent present before this Court, identified by Mr.S.Suresh, SSI of Police, Kanyakumari Police Station, Kanyakumari District, as well as by the learned counsels appearing for the parties. This Court enquired both the parties, satisfied that the parties have come to an amicable settlement between themselves on their own voluntarily without any compulsion.



Crl.O.P.(MD)No.23 of 2025

WEB COPY

6. In the instant case, where the parties have compromised the matter, the High Court has to power to quash the complaint for the offence under Sections 294(b), 506(2) and 352 I.P.C..

7. The legal position expressed by the Hon'ble Apex Court in the case of *Gian Singh vs. State of Punjab and another* reported in (2012) 10 SCC 303 and *Parbatbhai Aahir @ Parbatbhai Vs. State of Gujarat* reported in (2017) 9 SCC 641 were taken into consideration.

8. In the light of the guidelines issued in the above said judgments of the Hon'ble Apex Court, no useful purpose will be served in keeping the proceedings in CC.No.277 of 2020 on the file of the learned Judicial Magistrate Court NO.I, Nagercoil, Kanyakumari District, even though, the offences involved are not compoundable in nature.

9. Accordingly, this Criminal Original Petition is allowed and the proceedings in CC.No.277 of 2020 on the file of the learned Judicial Magistrate Court NO.I, Nagercoil, Kanyakumari District, is quashed as against the petitioners and the joint compromise memo shall form part



Crl.O.P.(MD)No.23 of 2025

WEB COPY

and parcel of this order. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No

06.01.2025

Index : Yes / No

Rmk

To

- 1.The Judicial Magistrate Court NO.I, Nagercoil,
Kanyakumari District.
- 2.The Inspector of Police,
Kanyakumari Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.23 of 2025

M.NIRMAL KUMAR, J.

Rmk

Order made in
Crl.O.P.(MD)No.23 of 2025

Dated: 06.01.2025