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CRL OP No. 4933 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-03-2026

CORAM

THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

CRL OP No. 4933 of 2026

S.Gijendran
S/o. Subramaniam,
D.No.21, V.S.Archit, Malaisuthi Road,
Valaraigate,
Tiruchengode Town and Taluk,
Namakkal District.

Petitioner(s)

Vs

The Inspector of Police,
Tiruchengode Town Police Station,
Tiruchengode, Namakkal District.
Cr.No.94 of 2025

Respondent(s)

PRAYER: The Criminal Original Petition filed under Section 528 of BNSS, 2023, praying to set aside C.C.No.464 of 2025 on the file of the Judicial Magistrate, Tiruchengode, Namakkal District and direct the respondent police to re-investigate, file an additional Charge Sheet .

For Petitioner : Mr.C.Prakasam
For Respondent : Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor



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ORDER

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This petition has been filed by the petitioner/defacto complainant on whose complaint a case in Crime No.94 of 2025 for offences under Sections 126(2), 296(b), 351(3) and 318(4) of BNS registered on 18.03.2025.

2.The contention of the petitioner is that on conclusion of investigation, charge sheet made ready on 03.12.2025 and the same was filed before the trial Court on 15.12.2025 for offence under Sections 126(2), 296(b) and 351(3) of BNS arraying one Suresh as an accused listing 11 witnesses. The case is that on 17.03.2025, the petitioner was proceedings in his car to his house near Brindhavan Nagar, at that time, the Suresh, who was driving Innova Cysta Car bearing No.TN-34-CY-0001, intercepted the petitioner's car and he got down from the car and scolded the petitioner using abusive words, thereafter he took a button knife from the car and threatened the petitioner to do away. Hence, the complaint lodged. In this case, investigation completed, charge sheet filed. But while filing the charge sheet, the offence under Section 318(4) of BNS deleted. Hence, the petitioner filed this petition seeking for appropriate direction.

3.The learned Additional Public Prosecutor fairly submitted that in the F.I.R., offence under Sections 126(2), 296(b), 351(3) and 318(4) of BNS



mentioned but in the charge sheet one of the offences, namely, Section 318(4) of BNS deleted. He further submitted that prior to filing the charge sheet, no notice given to the petitioner with regard to the deletion. He further submitted that if the petitioner is aggrieved on the deletion of the Section, the petitioner ought to have approached the trial Court, namely, Judicial Magistrate, Tiruchengode and file a protest petition. Thereafter it is for the concerned Court to consider the petitioner's protest petition and to pass appropriate orders.

4.Considering the submissions made and on perusal of the material, it is seen that in this case the petitioner straightaway approached this Court by filing a direction petition. The Apex Court in the case of *Bhagwant Singh v. Commissioner of Police* reported in *AIR 1985 SCC 1285* and this Court held that in case of deletion of Section or deletion of accused from the F.I.R. or charge sheet, notice has to be served to the defacto complainant to hear his/her objections. In this case, it is not followed.

5.In view of the above, the petitioner is directed to file an appropriate petition before the trial Court and the trial Court shall consider the same and pass appropriate orders in accordance with law.



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6. With the above directions, the Criminal Original Petition stands disposed of.

03.03.2026

Index : Yes/No
Speaking order/Non-speaking order
Neutral citation : Yes/No
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To

1. The Judicial Magistrate,
Tiruchengode, Namakkal District.

2. The Inspector of Police,
Tiruchengode Town Police Station,
Tiruchengode, Namakkal District.

3. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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