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CRL OP No. 8030 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30-03-2026

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No.8030 of 2026

and

CRL MP Nos.5686 & 5687 of 2026

Shivakumar,
S/o.Pichandi,
No.25A, Old Colony,
99, Pudhupalayam, Polur Taluk,
Thiruvannamalai District.

Petitioner

Vs

1.State represented by
The Inspector of Police,
Kalasapakkam Police Station,
Tiruvannamalai District.
(Crime No.213 of 2022)

2.Malliga,
W/o.Thangavel,
Old Colony, No.99,
Pudhupalayam, Polur Taluk,
Thiruvannamalai District.

Respondents

PRAYER: The Criminal Original Petition filed under Section 528 of BNSS, 2023, praying to call for the records and quash the case against petitioner in C.C.No.55 of 2022 on the file of the learned District Munsif-cum-Judicial Magistrate, Kalasapakkam, arising out of Crime No.213 of 2022 on the file of the 1st respondent.



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For Petitioner : Mr.A.Praveenkumar
For Respondent-1: Mr.Leonard Arul Joseph Selvam
Additional Public Prosecutor

ORDER

The petitioner/A3, who is facing trial in C.C.No.55 of 2022 for offence under Sections 294(b), 324, 355 and 506(2) of I.P.C., had filed this quash petition.

2.The contention of the learned counsel for petitioner is that the petitioner is a named accused in Crime No.213 of 2022, which came to be registered on 19.04.2022. Thereafter on conclusion of investigation, charge sheet made ready on 15.09.2022 and filed before the trial Court on 16.11.2022. In the charge sheet, the petitioner's name was deleted. The contention of the petitioner is that the petitioner, his mother, brother all are residing adjacent to the defacto complainant's residence. There was a dispute with regard to the parking of the car and the defacto complainant assaulted the petitioner's mother, which was questioned by the brother on the next day and there were some altercation and exchange of blows and the complaint was lodged including the petitioner's name knowing that he is a Government servant and he was not



present at the scene of occurrence. The petitioner is employed in a Provident Fund department in Trichy. Further, there is a delay of three days. The Investigating Officer on examining the witnesses, namely, LW4 to LW6, private individuals finding that petitioner was falsely implicated, had rightly deleted the petitioner's name. Notice was issued to the defacto complainant on 17.11.2022 intimating deletion of the petitioner's name. The defacto complainant filed protest petition and thereafter petitioner name has been included in the charge sheet as accused by way of order dated 20.11.2022 in CrI.M.P.No.1586 of 2021. Hence, he filed the above petition.

3.The learned Additional Public Prosecutor submitted that on the complaint of the defacto complainant, F.I.R. registered. In the F.I.R., petitioner's name was specifically deleted. The petitioner's overt act also mentioned. He fairly submitted that there was a delay of three days in lodging the F.I.R. During investigation, the defacto complainant, her husband and one Shankar, who were present in the scene of occurrence have all clearly stated about the petitioner's overt act that the petitioner attacked LW2/Thangavel using his slippers. The other witnesses, LW4, LW5, LW6 and LW7 had specifically stated that petitioner was not present. In view of the same, petitioner's name was deleted. But the trial Court, on the protest petition held otherwise and included the petitioner as accused in this case. The contention of the petitioner is factual in



nature. There are two sets of statements. One set implicating the petitioner and other set confirming the petitioner was not present in the scene of occurrence.

Hence, this factual aspect can be decided only during trial and not in a quash petition.

4.Considering the submissions made and on perusal of the material, this Court finds no reason to interfere with the inclusion of petitioner as accused in this case. It is for the petitioner to face the trial and raise all his defence during trial. Since the petitioner is employed in a Provident Fund office in Trichy, he seeks permission to exempt his personal appearance before the trial Court.

5.The petitioner is directed to file an exemption petition before the trial Court giving an undertaking that he will not dispute his identity and recording of the evidence in his absence and ensuring that the trial will not be stalled for his non-appearance in any manner. If such petition is filed, the trial Court to consider the same positively, ofcourse with the condition that as and when the trial Court directs, the petitioner should appear before the trial Court.



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6. With the above directions, the Criminal Original Petition stands dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

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Index : Yes/No

Speaking order/Non-speaking order

Neutral citation : Yes/No

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To

1. The District Munsif-cum-Judicial Magistrate,
Kalasapakkam.

2. The Inspector of Police,
Kalasapakkam Police Station,
Tiruvannamalai District.

3. The Public Prosecutor
High Court, Madras.



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M.NIRMAL KUMAR, J.

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