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CRL OP No. 10189 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-06-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 10189 of 2026

AND

CRL MP NO. 7265 OF 2026,

CRL MP NO. 7266 OF 2026

H.Haroon Basha

..Petitioner(s)

Vs

1. The State Represented by
Inspector of Police
E-5 Sholavaram Police Station,
Tiruvallur District.
Crime No. 188/2010.

2. M.Munusamy

..Respondent(s)

Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records in S.C.No.5 of 2025 on the file of IV Additional District Court, Thiruvallur at Ponneri and quash the same against this petitioner as an abuse of process.

For Petitioner(s):

Mr.Shajahan
for Mr.J.Kingsly Solomon

For Respondent(s):

Mr.R.Rajasekaran,
Counsel for Government of Tamil Nadu
(Criminal Side) for R1



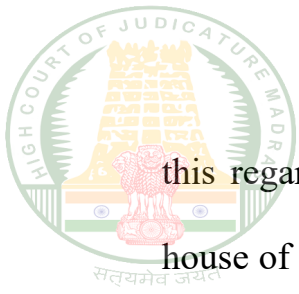
ORDER

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The petitioner/A10 facing trial in S.C.No.5 of 2025 on the file of IV Additional District Court, Thiruvallur at Ponneri, for the offences under Sections 147, 148, 341 and 302 IPC r/w. Section 120-B IPC, has filed the present quash petition.

2.The case of the prosecution is that the petitioners (A10) and 11 others conspired together and caused the death of one Moorthy on 27.02.2010 at Kiruthalpuram Village. A1, A2, A5, A6, A7 and A9 used deadly weapons and caused the death of deceased Moorthy due to enmity in performing pooja in Sarveswara Shahren Sha Temple-cum-Darga of Kiruthalpuram Village, as both parties claim rights for performing pooja in the same place. Hence, the case.

3.Learned counsel for the petitioner submitted that the petitioner has been falsely implicated in this case merely on the statement of L.W.4, namely Rajendran, who is said to have overheard the conversation of the petitioner with other accused persons on 25.02.2010 to do away with the deceased Moorthy. The said Rajendran (L.W.4) claims that he is running a Shop, selling flowers, incense sticks and sweets for the past 25 years near the Sarveswara Shahren Sha Temple-cum-Darga of Kiruthalpuram Village, in which, both Hindus and Muslims claim right and there are many cases pending between each other in



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this regard. L.W.4 has stated that, on 25.02.2010, the petitioner came to the house of one Kadhar Beevi. One Samsath also came there. At that time, L.W.4 overheard the conversation amongst the three of them. They discussed about Moorthy taking away the money, clothes and other offerings given by the public to the Temple. He heard the petitioner saying that the head should be cut off. It was Milad-un-Nabi day ensuing at that time and hence, L.W.4 thought it was the goat whose head is to be cut off. However, later, he was informed that the said Moorthy's head was cut off by one Babu, Bendu Gopi, Kurangu Mani, and Nangu and there were other injuries caused on the body of Moorthy. The learned counsel for the petitioner submitted that, apart from this stray statement of L.W.4 (Rajendran), there is no other incriminating material as against the petitioner herein (A10). However, the petitioner has been prosecuted for a heinous offence. Hence, he prays that continuation of criminal trial as against this petitioner is an abuse of process and therefore, prays for quashing of the proceedings against this petitioner.

4.Learned Government Counsel (Criminal Side) appearing for the 1st respondent Police strongly opposed the petitioner's contention by stating that the petitioner had earlier filed a petition for discharge before the trial Court in Crl.M.P.No.34 of 2025 and the same was dismissed on 23.10.2025 by the trial Court. Aggrieved over the same, the petitioner filed a revision before this Court in Crl.R.C.No.2357 of 2025. However, later, it was withdrawn by the



petitioner. Now, the petitioner has filed the present quash petition which is nothing but a second revision. Hence, he opposed this petition. He further submitted that it is a case of conspiracy, which is hatched in secrecy and cannot be seen in open. It has to be inferred by taking into other attending circumstances. He further submitted that the litigation in respect of the Temple-cum-Darga between the rival parties is still pending. He further submitted that the assailants, who were arrested, had also confessed about the involvement of the petitioner. Hence, the points raised by the petitioner have to be gone into only during trial. Hence, he opposed this petition.

5. The learned counsel for the petitioner strongly opposed the contentions of the learned Government Counsel (Criminal Side) by submitting that the petitioner, in this quash petition, had clearly mentioned that he had earlier filed a discharge petition, against the dismissal of which, he had filed a criminal revision before this Court. However, during the pendency of the criminal revision, the trial Court proceeded with the trial and framed the charges. Therefore, the petitioner withdrew the revision petition and has filed the present quash petition. He further submitted that the petitioner is aged about 80 years. Except the statement of L.W.4 and the confession of co-accused, there is no other material as against the petitioner. He further submitted that there is no such person called Rajendran (L.W.4), which is confirmed by the Observation Mahazar and Rough Sketch, wherein, there is no reference to the shop of the



said Rajendran. Therefore, he prayed for quashing of the charges as against the petitioner.

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6.Considering the submissions made on either side and on perusal of the materials available on record, it is seen that it is a case of murder. Admittedly, the petitioner has been implicated in this case based on the statement of one Rajendran (L.W.4) and the confession of the co-accused. The statement of the said Rajendran (L.W.4) is perused. L.W.4 has stated that, on 25.02.2010, he overheard the conversation of the petitioner with one Khadar Beevi and one Samsath. He has stated that the three persons were discussing about the misappropriations done by the deceased Moorthy in connection with the funds of the Temple-cum-Darga. Feeling dissatisfied with the same, they wanted to give an end to the problem. At that time, the petitioner said that they can give an end by cutting off the head. As Milad-un-Nabi was ensuing, L.W.4 thought that it was the goat's head which is to be cut off. However, on 27.02.2010, when he came to his Shop, he came to know that Moorthy's head was cut off by one Babu, Bendu Gopi, Kurangu Mani and Nangu. Therefore, he revealed the conspiracy meeting of the petitioner with other two persons about the murder of Moorthy, to the Police.

7.The petitioner is facing a charge of criminal conspiracy. L.W.4 has spoken about the conspiracy between the petitioner and other two persons.



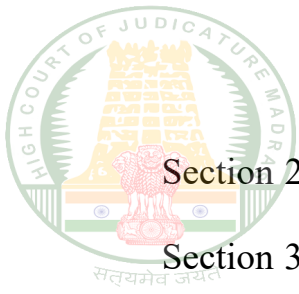
Though the petitioner has disputed the very identity of the said Rajendran (L.W.4), it is a matter of evidence and the same cannot be gone into by this

Court under Section 528 BNSS. The petitioner has been implicated based on the statement of L.W.4 and the confession of co-accused and therefore, it cannot be said that there are no incriminating materials as against this petitioner. Further, the contentions raised by the petitioner are questions of facts, which have to be tested by way of appreciation of evidence by the trial Court, but not by this Court exercising jurisdiction under Section 528 BNSS.

8. Therefore, this Court is not inclined to entertain this Criminal Original Petition. Finding no merits, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

9. It is well open to the petitioner to raise all his grounds before the trial Court. It is made clear that the observations made by this Court are only for the limited purpose of deciding this quash petition and the trial Court shall adjudicate the matter uninfluenced by any of the observations made by this Court.

10. Considering the fact that the petitioner is aged about 80 years and he is implicated only on the statement of L.W.4, the petitioner's presence before the trial Court can be dispensed with except for receiving the complaint under



Section 207 Cr.P.C., for answering the charge, at the time of questioning under

Section 313 Cr.P.C. and at the time of passing judgment and on the dates when

he is required by the trial Court to be present. For the other hearings, the petitioner can file a petition before the trial Court under Section 317 Cr.P.C. In the event of the petitioner filing such petition, the trial Court can liberally consider the same and later, during the trial proceedings, the petitioner cannot dispute his identity.

08-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

MKN

To

1.The IV Additional District Judge,
Thiruvallur at Ponneri.

2.The Inspector of Police
E-5 Sholavaram Police Station,
Tiruvallur District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR J.

MKN

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