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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-11-2026

Case QR

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 32772 of 2026 and
Crl.M.P.Nos.21571 and 21573 of 2026

CNR: {HCMA012589012026}

Vijayakumari
W/o (Late) Sugumaran,
No.22, M.G.Road,
Pattabiram, Chennai

..Petitioner(s)

Vs

1. State rep by The Inspector of Police
   T-9, Pattabiram Police Station,
   Avadi District.
   Crime No. 89 of 2025.
2. Hemapriya
   W/o Rajkumar,
   No.Mariamman Koil Street,
   Thandurai, Pattabiram,
   Chennai

..Respondent(s)

Prayer: This petition is filed under section 528 of BNSS to call for the records relating to the case in C.C.No.226 of 2025 on the file of the Judicial Magistrate No.II, Tiruvallur and quash the same and pass such further or other orders as it may deem fit and thus render Justice.

For Petitioner(s): Mr.R. Sasikumar
For Respondent(s): Mr.R.Ganesh Kumar, Additional Public Prosecutor for R1

ORDER

This petition has been filed to quash the proceedings in C.C.No. 226 of 2025 pending on the file of the Judicial Magistrate No.II, Tiruvallur

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2. On the complaint lodged by the second respondent, the first respondent registered a FIR in Crime No.89 of 2025 for the offences under Sections 296(b), 115(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023, (hereinafter referred to as "BNS"). It is alleged that the second respondent is a widow and there was some property in the family, due to which a suit was initiated in O.S.No.241 of 2024 before the District Munsif at Poonamallee and the same is pending. It is further alleged that on 05.02.2025 the petitioner and other accused went to the company where the husband of the second respondent was working and abused him and threatened him with dire consequences. Thereafter the husband of the second respondent passed away. With regard to the said occurrence the second respondent lodged a complaint before the first respondent and the same was registered in Crime No. 89 of 2025. On completion of investigation, the first respondent filed final report and the same has been taken cognizance by the trial Court in C.C.No.226 of 2025 on the file of the learned Judicial Magistrate No-II, Tiruvallur for the offences punishable under Sections 296(b), 115(2) and 351(2) of the Bharatiya Nyaya Sanhita, 2023. To quash the said proceedings, the present petition has been filed.

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

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4. Admittedly, there is property dispute between the petitioner and the defacto complainant. In this regard already they filed suit in O.S.No.241 of 2024 before the District Munsif at Poonamallee. That apart, the petitioner also filed complaint as against the husband of the second respondent. On perusal of the statement recorded under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as "BNSS"), revealed that there are contrary between the facts and circumstances. Further there is no specific allegations alleging that the petitioner scolded the defacto complainant and others used filthy language.

5. In order to attract the offence under Section 296(b) of BNS, there must be an uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 296(b) of BNS, as follows :-

> *"296. Obscene acts and songs —Whoever, to the annoyance of others—*
>
> *(a) does any obscene act in any public place, or*
>
> *(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both."*

6. Admittedly, there is absolutely no words uttered by the petitioners as such to constitute the offence under Section 296(b) of BNS, there is no

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averments and allegations. Further the charges do not show that on hearing the obscene words, which were allegedly uttered by the petitioners, the witnesses felt annoyed. No one has spoken about the obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the petitioners annoyed others, it can not be said that the ingredients of the offence under Section 296(b) of BNS is made out.

7. In this regard, it is relevant to rely upon the judgment reported in ***2025 SCC OnLine SC 238*** in the case of ***Om Prakash Ambedkar Vs. State of Maharastra and ors,*** in which the Hon'ble Supreme Court of India held that the test of obscenity under Section 296(b) of BNS is whether the tendency of the matter charged as obscenity is to deprave and corrupt those, whose minds are open to such immoral influences. This Court finds that the words uttered in this case have such a tendency. The words are defamatory about the complainant but this Court doesn't think that the words are obscene and the utterance would constitute an offence punishable under Section 296(b) of BNS. Further it has to be noted in the present case in the absence of words which will involve some lascivious elements arousing sexual thoughts or feelings or words cannot attract the offence under Section 296(b) of BNS. Mere abusive, humiliating or defamative words by itself cannot attract an offence under Section 296(b) of BNS. Therefore, there must be a further proof to establish that it was to the annoyance of others, which is lacking in the case. No one has spoken about the

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obscene words, they felt annoyed and in the absence of legal evidence to show that the words uttered by the accused annoyed others, it cannot be said that the ingredients of the offence under Section 296(b) of BNS is made out. Therefore, no case is made out as against the petitioners to attract the offence under Section 296(b) of BNS.

8. Insofar as the offence under Section 351(3) of BNS is concerned, threat should be a real one and not just a mere words when the person uttering does not exactly mean what he says and also when the person to whom threat is launched does not feel threatened actually. Whereas, in the case on hand, there is no averment to attract the offence under Section 351(3) of BNS.

9. Accordingly, the Criminal Original Petition stands allowed and the proceedings in C.C.No.226 of 2025 on the file of the Judicial Magistrate No.II, Tiruvallur is hereby quashed. Consequently, connected miscellaneous petition are closed.

12-11-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

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To.

1.The Judicial Magistrate No.II, Tiruvallur

2. The Inspector of Police
T-9, Pattabiram Police Station,Avadi District.

3. The Public Prosecutor, High Court, Madras

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G.K.ILANTHIRAIYAN, J.

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