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Order QR

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-11-2026

Case QR

CORAM

THE HON'BLE MR JUSTICE G.K. ILANTHIRAIYAN

CRL OP No. 32759 of 2026
and
CRL MP Nos. 21562, 21564 of 2026
CNR:{HCMA012630132026}

S.Ganesan

..Petitioner

Vs

1. The State Represented by,
   The Inspector of Police,
   Gobichettipalayam Police Station,
   Erode District.
   (In Crime No. 356 of 2026).

2. S.Shanmugam

..Respondents

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records culminating in C.C.No.207 of 2026 on the file of the learned Judicial Magistrate No.I, Gobichettipalayam and to Quash the same and pass such further order or other orders as this Court may deem fit and proper in the facts and circumstances of the case and thus render Justice.

For Petitioner: Mr.B Mohan

For Respondents: Mr.R.Ganesh Kumar
Additional Public Prosecutor
for R1

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ORDER

This petition has been filed to quash the proceedings in C.C.No.207 of 2026 pending on the file of the learned Judicial Magistrate No.I, Gobichettipalayam, thereby taken cognizance for the offences punishable under Sections 296(b), 298, 351(3) of the Bharatiya Nyaya Sanhita, 2023, and Section 3(2) of Prevention of Damage to Public property Act, 1984.

2. The case of the prosecution is that, based on the complaint lodged by the second respondent, the first respondent registered an F.I.R in Crime No.356 of 2025, alleging that, 14.06.2025, the petitioner had abused the de-facto complainant and other residents in filthy language. It is further alleged that the petitioner had damaged the small super structures in the temple premises and threatened all the general public by showing deadly weapons. On receipt of the said complaint, the first respondent registered an F.I.R in Crime No. 356 of 2025 for the offences punishable under Sections 296(b), 298, 351(3) of the Bharatiya Nyaya Sanhita, 2023, and Section 3(2) of Prevention of Damage to Public property Act, 1984.

3. The learned counsel for the petitioner submitted that the petitioner is the sole accused in the case and that there was only a wordy altercations between the accused and defacto complainant. Hence, he prayed to allowed this

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petition.

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4. Per contra, the learned Additional Public Prosecutor submitted that based on the complaint, the first respondent registered an FIR in Crime No. 356 of 2026. After completion of investigation, a final report was filed and the same was taken cognizance by the trial court in C.C.No.207 of 2026.

5. Heard the learned counsel appearing on either side and perused the materials placed on record.

6. On perusal of the impugned final report and the statements of the witnesses, it is revealed that the temple and also threatened all the general public with dire consequences. He further submitted that the petitioner had abused all the members of the general public with filthy language, and also comes without and causing nuisance to all general public. There are specific allegations as against the petitioner to constitute the offence. Therefore, there are specific allegations against the petitioners, which are sufficient to attract the offences under Sections 296(b), 298, 351(3) of the Bharatiya Nyaya Sanhita, 2023, and Section 3(2) of Prevention of Damage to Public property Act, 1984. The veracity of the allegations can be determined only at the stage of trial, upon the appreciation of evidence. The grounds raised by the petitioners involve disputed questions of fact, which cannot be adjudicated at this stage.

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7. The Hon'ble Supreme Court of India in the judgment reported in ***2019 (4) SCC 351*** in the case of ***Devendra Prasad Singh Vs. State of Bihar & Anr., (Crl.A.No.579 of 2019*** *dated* ***02.04.2019)*** while dealing with the petition to quash the entire criminal proceedings held that the High Courts have no jurisdiction to appreciate the statement of the witnesses and record a finding that there were inconsistencies in their statements and therefore, there was no *prima facie* case made out as against the accused. It could be done only by the trial Court while deciding the issues on the merits or/and by the Appellate Court while deciding the appeal arising out of the final order that the charge sheet has been laid on the basis of the inconsistency statement under Section 180 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

8. Further, the Hon'ble Supreme Court of India in the judgment reported in **2019 (10) SCC 686** in the case of **Central Bureau of Investigation Vs. Arvind Khanna, (Crl.A.No.1572 of 2019** dated 17.10.2019) held that the High Courts cannot record the findings on the disputed facts. The defence of the accused is to be tested after appreciation of evidence by the trial Court during the trial. Therfore, this Court has no power to consider the disputed facts under 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

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9. The Hon'ble Supreme Court of India in another judgment dated **02.12.2019** passed in **Crl.A.No.1817 of 2019** in the case of **M.Jayanthi Vs. K.R.Meenakshi & anr,** held that while considering the petition for quashment of complaint or charge sheet, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that consititue certain offences complained of. Further, the Court can also see whether the preconditions requisite for taking cognizance have been complied with or not and whether the allegations contained in the complaint, even if accepted in entirety, would not consititue the offence alleged. Whether the accused will be able to prove the allegations in a manner known to law would arise only at a later stage i.e., during trial.

10. Further, this Court cannot observe at this stage as to whether the initiation of criminal proceeding itself is malicious or not. The same is required to be considered at the conclusion of the trial. Therefore, the ground raised by the petitioner to quash the final report/charge sheet cannot be entertained. In view of the above discussion, this Court is not inclined to quash the proceedings in C.C.No.207 of 2026 on the file of the learned Judicial Magistrate No.I, Gobichettipalayam. The petitioner is at liberty to raise all the grounds before the trial Court.

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11. Hence, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

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

Pss/Lpp

To

1. The Judicial Magistrate No.I, Gobichettipalayam.

2. The Inspector of Police, Gobichettipalayam Police Station, Erode District.

3. The Public Prosecutor, High Court of Madras.

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G.K.ILANTHIRAIYAN J.

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