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Crl.R.C.No.2442 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2026

CORAM

THE HONOURABLE MR.JUSTICE **SUNDER MOHAN**

Crl.R.C.No.2442 of 2025
& Crl.M.P.No.21875 of 2025

Jothi

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Petitioner

Vs.

1.The State Represented by :-
The Assistant Commissioner of Police,
All Women Police Station West,
Coimbatore City.

2.The State, Represented by :-
The Inspector of Police,
All Women Police Station West,
Coimbatore City.
(Crime no.38 of 2024)

3.Sivasankari

...

Respondents

Prayer: Criminal Revision Petition filed under Sections 438 and 442 of BNSS, to set aside the order dated 07.10.2025 in Crl.M.P.No.165 of 2025 on the file of the Special Court for the Trial of Cases under SC and ST(POA) Act, Coimbatore and consequently discharge the petitioner in Spl.S.C.No.14 of 2025.

For Petitioner : Mr.K.S.Harish



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For Respondents : Mr.R.Vinothraja,
Government Advocate(Crl. Side)
for R1 & R1

Ms.B.N.Sinega for R3

ORDER

The Revision challenges the dismissal of the discharge petition filed by the petitioner, who is facing prosecution for the offences under Section 3(1)(r), 3(1)(s), 3(2)(va) of SC/ST (POA) Act and Section 351 (3) of BNS, 2023.

2.The case of the prosecution is that the son of the petitioner had a love affair with the defacto complainant; that on the promise of marriage, he had sexual intercourse with the defacto complainant and forced her to abort her pregnancy; that when the defacto complainant and her brother went to the house of the petitioner, the petitioner has abused the defacto complainant in filthy language within public view, for asking her to get the first accused married to the defacto complainant.

3.The petitioner sought for discharge before the trial Court. The trial Court had dismissed the said petition on the ground that at the stage



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of charge framing, it cannot be decided as to whether the alleged offences have been committed within the public view and that it is for the petitioner to establish all his defences in the trial.

4.The learned counsel for the petitioner would submit that the alleged occurrences took place in a housing board block; that the petitioner lives in the second floor; that the place of occurrence is shown as inside the house and not even in the corridors; and that therefore, it cannot be said that the alleged occurrences took place within public view and relied upon the rough sketch filed by the respondent.

5.The learned counsel for the third respondent/defacto complainant would further submit that it is not necessary that the public must have witnessed the occurrence and if the offence is committed within public view, it is sufficient to prosecute the person under Sections 3(1)(r) and 3(1)(s) and in any case, this question cannot be adjudicated in a discharge petition when there is *prima facie* material and it is for the trial Court to decide the said question in the trial.

6.The learned Government Advocate *per contra* submitted that the occurrences took place within public view; that though independent

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witnesses have not been examined, it is well settled that the incident need not have been witnessed by any public; that since the occurrences took place within public view, the offences are made out; and that the impugned order dismissing the petition for discharge is justified.

7.As stated above, the case of the prosecution is that the victim and the first accused, who is the son of the petitioner had a love affair. It is the further case of the prosecution that the first accused on the promise of marriage had sexual intercourse with the victim and thereafter, refused to marry her. The victim and her brother are said to have approached the petitioner to get the first accused married to the defacto complainant and that the petitioner is said to have abused the defacto complainant in filthy language and humiliated her on account of her caste in public view.

8.As rightly contended by the learned counsel for the petitioner, the scene of occurrence is shown as the house of the petitioner. The house is situated in the second floor of a housing complex. It is also seen from the alteration report, that the occurrences took place in the house of the petitioner. It is well settled that unless the alleged occurrences had taken place within public view, the offences under Sections 3(1)(r) and 3(1)(s) could not be made out. There is no other evidence to substantiate that the



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occurrences took place within public view. Hence, this Court is of the view that Section 3(1)(r) and 3(1)(s) are not made out. Further, the offence under Section 3(2)(va) would only be made out if any other offence is committed. Admittedly, the petitioner has not committed any other offence. Therefore Section 3(2)(va) is also not made out. As regards Section 351(3) of BNS Act (Sec. 506(ii) IPC), unless the threat is real, the said offence would not be made out.

9.This Court, in the case of ***Noble Mohandass vs. State*** reported in ***1989 Cri.Lj 669***, had held as follows:

“7. Further for being an offence under Section 506(2) which is rather an important offence punishable with imprisonment which may extend to seven years, the threat should be a real one and not just a mere word when the person uttering it does exactly mean what he says and also when the person at whom threat is launched does not feel threatened actually.”

10.In this case there is no allegation of real threat and therefore, this Court is inclined to set aside the impugned order and discharge the petitioner. The trial Court is directed to proceed against the first accused in the manner known to law and dispose of the trial as expeditiously as



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possible.

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11. Accordingly, the Criminal Revision is allowed. Consequently, the connected criminal miscellaneous petition is closed.

04.02.2026

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

To

1. The Special Court for the Trial of Cases
under SC and ST (POA) Act, Coimbatore
2. The Assistant Commissioner of Police,
All Women Police Station West,
Coimbatore City.
3. The Inspector of Police,
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SUNDER MOHAN, J.
Tsg

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