



Crl.OP(MD)No.879 of 2026

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 20.01.2026**

**CORAM**

**THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**CRL.O.P.(MD) No.879 of 2026**

**and**

**CRL.M.P.(MD) Nos.954 and 956 of 2026**

Syed Ali

... Petitioner

Vs

State of Tamil Nadu,  
Rep. by Inspector of Police,  
Puliangudi Police Station,  
Tenkasi District.  
Crime No.196 of 2021.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned charge sheet in C.C. No. 293 of 2022 on the file of the learned Additional District cum Judicial Magistrate Court, Sivagiri, Tenkasi District and to quash the same.

For Petitioner : Mr. SMA.Jinnah

For Respondent : Mr. S.Ravi  
Additional Public Prosecutor



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## **ORDER**

### ***Preface:***

This Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the charge sheet in C.C.No.293 of 2022 pending on the file of the learned Additional District Munsif-cum-Judicial Magistrate Court, Sivagiri, Tenkasi District.

2. The petitioner stands arrayed as the sole accused in the above calendar case for the alleged offences under Sections 153 and 506(i) IPC and Section 67 of the Information Technology Act, 2000. The gravamen of the prosecution case is that the petitioner had uploaded a Facebook post disparaging Hindus and thereby attempted to incite communal disharmony between Hindus and Muslims residing in Puliyangudi.

3. The petitioner seeks quashment of the proceedings contending that the prosecution is founded upon vague allegations, unsupported electronic evidence, absence of a legally admissible



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certificate under Section 65-B of the Indian Evidence Act, lack of forensic examination, and total non-fulfilment of the ingredients of the offences alleged.

***Case of the Prosecution:***

4. The prosecution case, in brief, is that on 07.04.2021 at about 18.00 hours, one Sub-Inspector of Police attached to Puliyangudi Police Station received information that the petitioner, who was said to be running an Islamia Training Centre at Puliyangudi, had uploaded a Facebook post allegedly disparaging Hindus.

5. On verification, it was allegedly found that on 03.04.2021 at about 16.00 hours, the accused had published a provocative post containing threats and statements calculated to incite communal violence between Hindus and Muslims, who were stated to be living in almost equal numbers in Puliyangudi, thereby creating a threat to public peace and order.



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6. Based on the said allegations, a case appears to have originally been registered in Crime No.196 of 2021 of Puliyangudi Police Station. Thereafter, according to the pleadings, a *suo motu* FIR came to be registered in Crime No.23 of 2022 for the offences under Sections 153 and 506(i) IPC and Section 67 of the Information Technology Act, 2000.

7. After completion of investigation, the respondent police laid a final report / charge sheet against the petitioner on 12.08.2021, and the same was taken on file as C.C.No.293 of 2022 by the learned Additional District Munsif-cum-Judicial Magistrate Court, Sivagiri, Tenkasi District. The criminal case is now pending for trial.

***Grounds for quash:***

8. The petitioner would contend that the case has been falsely foisted against him with malicious intent and that he had neither authored nor uploaded the alleged Facebook post. According to him, the disputed message had been created by some other person and circulated in social media and, on seeing the same, he had only



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informed the respondent. Instead of tracing the original creator of the content, the petitioner has been falsely implicated.

9. It is the further case of the petitioner that he had no *mens rea* whatsoever, that he is a person professing Islam with the avowed intention of promoting peace in society, and that the words attributed to him do not satisfy the ingredients of either communal provocation or criminal intimidation.

10. The petitioner also attacks the prosecution on the ground that the alleged electronic evidence has not been collected, preserved, or presented in the manner known to law. The respondent police, according to the petitioner, failed to secure a valid certificate under Section 65-B of the Indian Evidence Act, failed to subject the seized mobile phone to forensic examination, failed to obtain expert opinion, failed to seize the original source device or Facebook account from which the post had allegedly originated, and mechanically laid the charge sheet.



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11. The petitioner would further submit that the allegations in the FIR and the final report are mutually inconsistent; that no incriminating electronic record has been produced in admissible form; that no real threat or alarm is made out to attract Section 506(i) IPC; and that continuation of the prosecution would amount to abuse of process of Court.

***Arguments on either side:***

12. The learned counsel for the petitioner submitted that even if the allegations in the charge sheet are taken at face value, the same do not disclose the commission of any offence by the petitioner. He would submit that there is absolutely no legally admissible material to show that the disputed Facebook post originated from the petitioner's mobile phone or Facebook account.

13. The learned counsel further submitted that the entire prosecution hinges on electronic evidence. In such circumstances, compliance with Section 65-B of the Indian Evidence Act is mandatory. Reliance was placed upon ***Anvar P.V. vs. P.K. Basheer***<sup>1</sup>,

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<sup>1</sup> ((2014) 10 SCC 473)



wherein the Hon'ble Supreme Court emphasized the mandatory conditions for admissibility of electronic records under Section 65-B.

14. The learned counsel would also submit that the petitioner's mobile phone was allegedly seized, yet no forensic laboratory examination was conducted and no expert opinion was obtained. Even according to the prosecution materials placed before this Court, the original device or account from which the alleged message originated has not been identified or seized.

15. The learned counsel additionally contended that the ingredients of Section 153 IPC are wholly absent. Reliance was placed upon the decision in **Sanjeev vs. State of Kerala**<sup>2</sup>, wherein the Hon'ble Kerala High Court discussed that the act must be illegal, malignantly or wantonly done, and intended or known to provoke rioting.

16. In so far as Section 506(i) IPC is concerned, the learned counsel submitted that there must be a real threat accompanied by

<sup>2</sup> CRL MC NO. 7245 of 2022



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intention to cause alarm. Reliance was placed upon the decision of the Hon'ble Supreme Court in ***Mohammad Wajid & Another vs. State of U.P. & Others***<sup>3</sup>, wherein it was reiterated that an offence of criminal intimidation requires intention to cause alarm.

17. Per contra, the learned Government Advocate (Crl. Side) submitted that the allegations are grave in nature, involving a social media post capable of causing communal disharmony and disturbance of public peace. He would submit that the disputed post was found during the course of investigation and that the truth or otherwise of the prosecution case is a matter for trial.

18. The learned Government Advocate further submitted that this Court, while exercising jurisdiction under Section 528 BNSS, should not conduct a meticulous appreciation of evidence and that the charge sheet cannot be quashed merely because the petitioner disputes authorship of the post.

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<sup>3</sup> 2023 SCC OnLine SC 951



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19. According to the learned Government Advocate, the sufficiency or admissibility of electronic evidence may be tested during trial and the prosecution ought to be given an opportunity to establish its case in accordance with law.

***Point for Consideration:***

20. In the light of the rival submissions, the point that arises for consideration in this petition is whether the continuation of the criminal proceedings in C.C.No.293 of 2022 against the petitioner for the offences under Sections 153 and 506(i) IPC and Section 67 of the Information Technology Act, 2000 amounts to abuse of process of Court, warranting interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023?

***Analysis:***

21. At the outset, it must be stated that the inherent jurisdiction of this Court is undoubtedly extraordinary in nature and is to be exercised sparingly. However, it is equally well settled that where the uncontroverted allegations do not disclose the ingredients



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of the offences alleged, or where the prosecution is patently attended by legal infirmities going to the root of the matter, the High Court would be justified in stepping in to prevent abuse of process.

22. In the present case, the entire prosecution edifice is built upon an alleged Facebook post. Therefore, the foundational question is not merely whether an offensive post existed, but whether there is legally sustainable material to connect that post to the petitioner.

23. The prosecution, as projected before this Court, does not appear to have secured the origin device or the origin Facebook account from which the impugned message was first created or disseminated. On the contrary, the specific defence of the petitioner is that the message was created elsewhere and merely circulated in social media. This defence assumes significance because the investigating agency was expected to establish authorship, origin, control, and dissemination through proper digital investigation.



24. Merely attributing the post to the petitioner, without tracing the source of the electronic record, without proper certification, and without scientific verification, would not be sufficient even to cross the threshold of a sustainable prosecution when the very authorship is in serious doubt.

25. The petitioner has specifically raised the absence of a certificate under Section 65-B of the Indian Evidence Act. The Hon'ble Supreme Court in **Anvar P.V. vs. P.K. Basheer**<sup>4</sup> and later in **Arjun Panditrao Khotkar vs. Kailash Kushanrao Gorantyal**<sup>5</sup> made it clear that where reliance is placed on electronic records by way of secondary evidence, the requirements of Section 65-B are mandatory.

26. In the case on hand, the respondent has not demonstrated before this Court that the alleged electronic record was accompanied by a valid certificate satisfying the mandatory statutory requirements. There is also no indication of the particulars of the device, the manner of production of the electronic record, or

<sup>4</sup> ((2014) 10 SCC 473)

<sup>5</sup> 2020 7 SC 1



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certification by a person occupying a responsible official position in relation to the device in question.

27. Added to the above, the petitioner's grievance that the seized mobile phone was not subjected to forensic examination has not been meaningfully answered. In prosecutions arising out of disputed social media posts, forensic examination of the device and account metadata constitutes a crucial link in establishing authorship. Its absence, in the facts of the present case, is not a minor irregularity but a substantive lacuna.

28. This Court is also unable to ignore the contention that no expert opinion was obtained and that the original source device / account was not seized. When the very basis of the prosecution is a digital publication, failure to investigate the origin and authenticity of the post strikes at the root of the prosecution story.

29. Coming to Section 153 IPC, the provision is attracted only when there is an illegal act done malignantly or wantonly, with



intention to provoke rioting or with the knowledge that such provocation is likely. The discussion in ***Sanjeev vs. State of Kerala***<sup>6</sup> on the ingredients of Section 153 IPC is apposite in this regard.

30. In the case on hand, apart from a bare allegation that the post was provocative, there is no legally reliable material shown to this Court establishing that the petitioner had authored or intentionally disseminated the content with the requisite *mens rea*. The element of intentional provocation, which is central to Section 153 IPC, is conspicuously absent on the present materials.

31. Likewise, for the offence under Section 506(i) IPC, there must be a threat coupled with an intention to cause alarm. The Hon'ble Supreme Court has reiterated that intention to cause alarm is a necessary ingredient of criminal intimidation.

32. In the present case, the prosecution materials, as presented, do not disclose any specific victim who was placed under alarm, nor do they disclose a direct threat personally conveyed by

<sup>6</sup> CRL MC NO. 7245 of 2022



the petitioner to any identifiable person so as to *prima facie* satisfy the requirements of criminal intimidation. The allegations remain broad, generalized, and inferential.

33. As regards Section 67 of the Information Technology Act, when the prosecution is based on publication / transmission of electronic content, proof of control over the account, authorship of the content, and legally admissible electronic evidence become indispensable. In the absence of such foundational material, continuation of prosecution would rest more on suspicion than on *prima facie* legal proof.

34. The petitioner has also pointed out contradictions between the FIR and the final report. Though every discrepancy may not justify quashment, in the present case these inconsistencies assume relevance because the prosecution already suffers from lack of source identification, lack of forensic corroboration, and non-compliance with mandatory evidentiary requirements.



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35. The cumulative effect of these deficiencies persuades this Court to hold that the charge sheet has been laid in a mechanical manner, without the collection of the basic legally admissible material required to prosecute an individual for alleged digital publication of communal content.

36. This Court is conscious that disputed questions of fact are ordinarily left to trial. However, when the very admissibility and foundational authenticity of the alleged electronic evidence are absent, and when the ingredients of the offences are not made out even on the face of the final report, relegating the petitioner to undergo the ordeal of trial would amount to permitting abuse of process.

37. The principles laid down in ***State of Haryana v. Bhajan Lal***<sup>7</sup> continue to guide the exercise of inherent powers where the allegations do not disclose an offence or where the proceedings are manifestly attended with mala fides or legal infirmity. On the facts of

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<sup>7</sup> 1992 Supp(1) SCC 335



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the present case, this Court finds that the petitioner has brought the matter within the permissible contours for quashment.

38. For all the reasons stated above, this Court is of the clear view that the respondent police have failed to collect and place legally sustainable material connecting the petitioner with the alleged offending post. The mandatory safeguards concerning electronic evidence have not been shown to have been complied with. The ingredients of the offences under Sections 153 and 506(i) IPC and Section 67 of the Information Technology Act are not made out on the materials now available.

39. Consequently, continuation of the prosecution against the petitioner in C.C.No.293 of 2022 would amount to abuse of process of Court and interference under Section 528 BNSS is warranted.

40. In an age where digital speech and electronic records increasingly form the basis of criminal prosecutions, the investigating agency must adhere with exactitude to the safeguards



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mandated by law. A criminal trial cannot be permitted to proceed merely on attribution without authentication. Social harmony is undoubtedly precious, but prosecutions launched in its name must nevertheless stand on the firm foundation of lawful investigation and admissible evidence. The criminal law cannot be set in motion on suspicion alone, especially in cases involving disputed electronic records.

41. In the result, this Criminal Original Petition is allowed. The proceedings in C.C.No.293 of 2022 on the file of the learned Additional District Munsif-cum-Judicial Magistrate Court, Sivagiri, Tenkasi District, are hereby quashed insofar as the petitioner is concerned. Consequently, the connected miscellaneous petitions are closed.

**20.01.2026**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
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To

- 1.The Additional District cum  
Judicial Magistrate Court,  
Sivagiri,  
Tenkasi District.
- 2.The Inspector of Police,  
Puliangudi Police Station,  
Tenkasi District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**L.VICTORIA GOWRI, J.**

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