



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2026

CORAM

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

CrI.O.P.(MD).No.812 of 2026
and CrI.M.P(MD)Nos.817 and 819 of 2026

1.Karthick
2.Renugadevi

...Petitioners/A1 and A2

Vs.

1.The State of Tamil nadu,
rep., by the Inspector of Police,
Sellur Police Station,
Madurai City.
Crime No.360 of 2021

2.Ganesan

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in C.C.No.1857 of 2023 on the file of the learned Judicial Magistrate No.II, Madurai, and quash the same as against the petitioners and devoid of merits.

For Petitioners : Mr.M.Jegadeesh Pandian

For R1 : Mr.B.Thanga Aravindh
Government Advocate (CrI. Side)



WEB COPY



ORDER

This Criminal Original Petition is filed under Section 528 BNSS, seeking to quash the proceeding in C.C.No.1857 of 2023 on the file of the learned Judicial Magistrate No.II, Madurai.

2.Considering that no adverse order is likely to be passed against the second respondent, notice to him is dispensed with.

3.The case of the prosecution is that on 25.04.2021 at about 17.30 hours, the de facto complainant allegedly found the petitioners while they are indulging in selling of goat meat at 60 feet road, Sellur, in violation of covid-19 pandemic. When the same was questioned by the defecto complainant, the petitioners are said to have threatened the defacto complainant and abused in filthy language. In this regard, a first information report in Crime No.360 of 2021 was registered as against the petitioners and another one for the offences under Sections 294(b), 353, 271 and 290 of IPC and Section 3 of Epidemic Disease Act, on



10.05.2021. The same had culminated in filing a final report in C.C.No. 1857 of 2023. Challenging the same, the present petition has been filed.

4.The learned counsel for the petitioners submitted that similar matter has already been dealt with by this Court in the case of ***Subramanian Vs., State and another*** in ***Crl.O.P.No.9059 of 2022***, in which, this Court, by order dated 22.04.2022, had quashed the FIR therein. Hence, he seeks indulgence of this Court by quashing the impugned FIR herein.

5.Per contra, the learned Government Advocate (Crl.side) submitted that the case relied by the learned counsel for the petitioners will not be applicable to the facts and circumstances of this case, for the reason that in the case relied upon by the petitioners, the first information report was registered for the offences under Sections 143, 269 and 271 IPC, however, in the instant case, offences involved are 294(b), 353, 271 and 290 of IPC and Section 3 of Epidemic Disease



Act. He further categorically contended that, during the pandemic, the petitioners violated the regulations by opening the shop and selling meat, which clearly constituted offences, and therefore sought dismissal of the petition.

6. Heard the learned counsel on either side and carefully perused the materials available on record.

7. Section 353 of IPC deals with assault or criminal force to deter public servant from discharge of his duty. Criminal force is defined in Section 350 of IPC and the same is extracted as follows:-

350. Criminal force.— *Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other*



WEB COPY

8.The mandates of the aforesaid Section would make it clear that only when a person intentionally uses force to any person, without that person's consent, the offence of criminal force would be made out. For the offence under Section 353 to be made out, there should be an assault or criminal force to deter public servant from discharge of his duty. In the instant case, a fair reading of the charge sheet itself would suffice to understand that no criminal force had been exerted by the petitioners as against the public servants at any point of time and hence, the offence under Section 353 is not made out.

9.However, a careful perusal of the charge sheet would reveal that the cognizance taken by the learned Judicial Magistrate II, Madurai, is only a rubber stamp cognizance. In view of the same, the impugned final report C.C.No.1857 of 2023 on the file of the learned Judicial Magistrate No.II, Madurai, is hereby quashed and the matter is remanded back to the learned Judicial Magistrate II, Madurai, and the learned Judicial Magistrate is directed to consider the matter is pertaining to pandemic issues. Accordingly, this Criminal Original



Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

12.01.2026

NCC : Yes/No
Index : Yes / No
Rmk

To

- 1.The Judicial Magistrate No.II, Madurai.
- 2.The Inspector of Police,
Sellur Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



L.VICTORIA GOWRI,J.,

Rmk

Crl.O.P.(MD).No.812 of 2026

12.01.2026