



CrI.O.P.(MD)No.1799 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **03.02.2026**

CORAM:

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

CrI.O.P.(MD)No.1799 of 2026
& CrI.M.P.(MD)No.2002 & 2003 of 2026

S.Chelladurai

... Petitioner

Vs.

The State of Tamil Nadu,
1. The Inspector of Police,
Manur Police Station, Manur,
Tirunelveli District.
(crime No.627 of 2024)

2.Mahesh

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the charge sheet in S.T.C.No.5900 of 2025 on the file of the Learned Judicial Magistrate No.V, Tirunelveli and Quash the same in respect of the petitioners as illegal.

For Petitioners : Mr.D.S.Haroon Rasheed

For Respondents : Mr.M.Sakthi Kumar (R1)

Government Advocate (CrI.)



CrI.O.P.(MD)No.1799 of 2026

ORDER

WEB COPY

The petitioner seeks for quash of the charge sheet in S.T.C.No.5900 of 2025 on the file of the learned Judicial Magistrate No.V, Tirunelveli and Quash the same in respect of the petitioner as illegal.

2. The petitioner is a practising Advocate. The case of the prosecution is that on 25.08.2024 at about 06:00 p.m., while the defacto complainant was inspecting various vehicles seized, the petitioner was seated on his two-wheeler in front of the Manur Police Station, thereby causing obstruction to the public. When questioned by the defacto complainant, the petitioner allegedly refused to remove the vehicle, which continued to cause hindrance to the public. Pursuant to the complaint lodged by the defacto complainant, a case in Crime No. 627 of 2024 was registered under Section 293 of BNS, 2023.

3. The learned counsel appearing for the petitioner submitted that the offence under Section 293 of the BNS is not made out, as it is a non-cognizable offence. No police officer shall investigate a non-cognizable offence without an order of the Magistrate having the power to try such case or commit it for trial. In such circumstances, the non-cognizable case ought to have been referred to the Magistrate.



CrI.O.P.(MD)No.1799 of 2026

WEB COPY

4. He also relied upon the order passed by this Court in CrI.O.P.(MD) No. 16135 of 2021, wherein a similar issue was considered. This Court, by order dated 09.11.2021 has categorically held that the Executive Magistrate has been conferred with the power and jurisdiction to deal with the offence under Section 291 of IPC (293 of BNS, 2023). The Statutory scheme contemplates that with respect to commission of public nuisance, passing of an injunction order restraining its commission and continuance or repetition of the act in defiance of the injunction order to desist from indulging in the Act defiance of the injury is within the powers of the Executive Magistrate and not the Police Officer.

5. Heard the learned counsel appearing on either side and perused the materials available on record. Considering that the second respondent is a police officer impleaded in his personal capacity, notice to him is dispensed with.

6. This Court, in CrI.O.P.(MD) No. 16135 of 2021 vide order dated 09.11.2021 has held as follows:-

“9.What cannot be done directly cannot be done indirectly also. This doctrine is based upon the Latin maxim



CrI.O.P.(MD)No.1799 of 2026

“Quando aliquid prohibetur ex directo, prohibetur et per obliquum”. This principle can be applied to criminal law also. The respondent police could not have registered a case under Section 290 of IPC on their own against the petitioners. In order to overcome the statutory bar created by Section 155 of Cr.Pc, the police invoked Section 291 of IPC. For the reasons set out above, I hold that the very registration of the impugned FIR is a clear abuse of legal process. It is quashed. The criminal original petition is allowed. Connected miscellaneous petition is closed.”

7. Fully fortified by the aforesaid order of this Court, this Court finds it necessary to interfere in the matter. Accordingly, the charge sheet in S.T.C.No. 5900 of 2025 on the file of the Learned Judicial Magistrate No.V, Tirunelveli is quashed. and this criminal original petition stands allowed. Consequently, connected miscellaneous petitions are closed.

03.02.2026

NCC : Yes / No
Index : Yes / No
sm



Crl.O.P.(MD)No.1799 of 2026

TO:-

WEB COPY

1. The Inspector of Police,
Manur Police Station, Manur,
Tirunelveli District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.1799 of 2026

L.VICTORIA GOWRI, J.

Sm

Order made in
CrI.O.P.(MD)No.1799 of 2026

Dated
03.02.2026