



Crl.O.P.(MD) No.4468 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.02.2025

CORAM

THE HONOURABLE MRS. JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD) No.4468 of 2025
and Crl.M.P(MD).Nos.3175 and 3177 of 2025

Sureshkumar @ M.L.Raja

... Petitioner/A4

Vs.

1.The State of Tamil Nadu rep. by
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
Crime No.328 of 2014

2.Jakulin Raj

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to the impugned charge sheet in P.R.C.No.68 of 2023 on the file of the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District and to quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.V.Karuna



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For R1 : Mr.M.Sakthikumar
Government Advocate (Crl. Side)

For R2 : Mr.T.Arul

ORDER

Seeking quashment of the final report laid in P.R.C.No.68 of 2023 on the file of the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District, this Criminal Original Petition is filed.

2.The learned counsel for the petitioner submitted that the petitioner herein is the fourth accused in P.R.C.No.68 of 2023 pending trial before the learned Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District. At the instance of the defacto complainant/ Second respondent herein, an first information report was registered by the first respondent police in Crime No.328 of 2014 for the alleged offences under Sections 294(b) 324 and 506(ii) of IPC, on 19.04.2014. After completion of investigation, the first respondent police filed an alteration report and altered the offences under Sections 323, 307, 294(b), 324 and 506(2) of IPC, on 19.01.2021 and the same culminated in filing a final report



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against four persons, of whom, the petitioner herein, who supported the accused, was charged with the offences under Sections 294(b), 324, 307 and 506(ii) IPC. He categorically contended that no specific overt act could be made out as against the petitioner, for the simple reason that the petitioner was not at all present either in the scene of occurrence or in the destination as claimed by the prosecution narrative on 10.03.2014 and on the said day, he was actually present in his place of work. The petitioner is a Constable in Border Security Force, Ministry of Home Affairs, Government of India.

3.He further contended that on 18.04.2014 actually the petitioner was working in the Battalion Head Quarters at Meghalaya, which duly comes under the control of Mr.Anil Kumar Singh, Commandant. To clarify that the petitioner was actually serving on 18.04.2014 in Battalion under him, he had issued an information letter along with the certificate issued by him showing that the petitioner herein was working at Dobasipara, Tura Meghalaya Head Quarters from 29.03.2014 to 30.01.2014. Relying upon the said document issued by the Commandant of Border Security Force, the learned counsel for the petitioner sought the



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indulgence of this Court and pressed for quashment of the final report as against the petitioner.

4.The learned counsel for the defacto complainant categorically contended that the petitioner is a man with bad criminal antecedents and he had history of seven previous criminal cases, in which, three cases are still pending and four other cases were closed on the basis of compromise arrived at between him and the defacto complainant in the aforesaid cases. That apart, he also placed before me the affidavits given by one Neslin Daniel, S/o.Yesunes, from Mulagumoodu Post, Kanyakumari District, C.Suthersana Kumar, S/o.Chellapa Pillai, from Mulagumoodu Post, Kanyakumari District, one Mano Rajan, S/o.Russel Raj, from Mulagumoodu Post, Kanyakumari District and one I.Justin, S/o.Jerone, from Mulagumoodu Post, Kanyakumari District, acknowledging that they have personally seen the petitioner on the said day in the place of occurrence.

5.The learned Government Advocate (Criminal Side) categorically contended that there are two eyewitnesses, and that the prosecution has also recorded statements under Section 161 Cr.P.C., from both of them



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6.I have heard the learned counsel for the petitioner, learned counsel for the defacto complainant and the learned Government Advocate (crl.side) and also carefully perused the materials available on record.

7.The only defence which is put forth by the learned counsel for the petitioner is that, on the fateful day i.e., on 18.04.2014, the petitioner was not at all present in the scene of occurrence and he had been actually serving at Meghalaya Head Quarters under the control of Mr.Anil Kumar Singh, Commandant. At this stage, considering a petition for quashment of a final report, this Court cannot embark upon a roving enquiry into the defences put forth by the learned counsel for the petitioner. The Court is required to examine only whether the allegations set out in the charge sheet and the materials accompanying it *prima facie* disclose the commission of any offence. A Careful and plain reading of the final report itself would reveal that specific overt acts are clearly made out as against the petitioner herein. This Court cannot embark upon a meticulous appreciation of evidence or adjudicate upon the veracity of allegations in the case on hand. A perusal of the final report would explicitly reveal that



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certain overt acts are clearly made out as against the petitioner. The contentions raised by the petitioner as to his absence in the place of occurrence and that he had actually served in Border Security Force as a Constable at Meghalaya are all factual disputes, which cannot be gone into at this stage and all are matters to be tested only during trial. Interference at this stage would amount to conducting a mini trial, which is impermissible in proceedings under Section 528 of the BNSS. Criminal law cannot be scuttled at the threshold merely on the basis of defences projected by the accused. In the instant case, I am not inclined to consider the defence, which has been put forth by the learned counsel for the petitioner before this Court. However, the petitioner is at liberty to produce all necessary documents at the time of trial in the defence's side. The final report does not warrant any interference on the ground of any infirmity and this Criminal Original Petition is dismissed accordingly. Consequently, connected Miscellaneous Petitions are closed.

11.02.2026

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
Rmk



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Copy To:

- 1.The Judicial Magistrate No.I, Padmanabapuram, Kanyakumari District.
- 2.The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Rmk

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