



Crl OP(MD)No.7624 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : **20.04.2026**

CORAM

THE HON'BLE MR.JUSTICE B.PUGALENDHI

Crl OP(MD)No.7624 of 2026and
Crl MP(MD)No.8227 of 2026

1.Sheik Mohamed

2.Abdul Raheem

3.Ansar

4.Ali Hussain

5.Mohammed Khan

6.Asan Khan

7.Saleem

8.Peer Khan

9.Mujeeb Rahuman

10.Jamal

11.Feros

12.Shakul Hameed

... Petitioners

versus

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1.State of Tamil Nadu rep by
Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
[Crime No.177 of 2025]

2.Sardhar Sha

... Respondents

Prayer : Criminal Original Petition filed under Section 447 of BNSS, to withdraw and transfer the case in CC.No.703 of 2025 on the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District in connection with Crime No.177 of 2025 on the file of the Sub Inspector of Police, Marthandam Police Station, Kanyakumari District and transfer to any other court in the nearby District such as Tirunelveli more particularly, the learned Judicial Magistrate No.I, Valliyoor, Tirunelveli District and further trial proceedings forthwith.

For Petitioners : Mr.Elangovan

For R1 : Mr.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER

The defacto complainant in this case is an Advocate practising in Kuzhithurai. Therefore, the petitioner has filed this petition



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seeking transfer of the case in CC.No.703 of 2025 from the file of the learned Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District to the learned Judicial Magistrate No.I, Valliyoor, Tirunelveli District.

2.The learned counsel for the petitioners submits that the petitioners were informed that there is a resolution passed by the Bar barring Kuzhithurai and Kanyakumari Advocates appearing on behalf of the petitioners. The learned counsel by referring to the orders of this court passed in CrIOP(MD)No.19341 of 2019 dated 02.01.2020 and CrI OP(MD)No.16202 of 2022, dated 11.11.2022 submits that this court has entertained the similar petitions seeking transfer of cases, in which the defacto complainants are practising advocates, from the courts of Kanyakumari to other courts.

3.The learned Additional Public Prosecutor appearing for the respondent police submits that there is no such resolution as alleged by the petitioners and the petitioners have not placed any such



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resolution before this court. According to him it is a case and counter. Therefore, there is no necessity to transfer the case.

4.This court has considered the rival submissions made.

5.This is not the first time, this court deals with such a prayer. Several persons have approached this court making certain allegations as against the Bar members of Kanyakumari district and that they are not provided with any legal assistance, whenever the complaints have been lodged by their Bar members. This court has also taken cognisance of a similar issue in Crl.OP(MD)Nos.13177, 13661, 12098 and 13525 of 2025, wherein the petitioners were also denied legal representation on account of the decision of Bar association. This court by order dated 05.11.2025 has held that such a practice is against the Constitution and violates the standards of Professional Conduct and Etiquette. The relevant portions are extracted hereunder:



“15.At the outset, this Court cannot ignore the fact that allegations of this nature against the Nagercoil Bar Association are not novel. Since 2010, not less than thirty cases have reached this Court alleging that resolutions, formal or informal, were passed preventing appearance for certain accused. The list of such cases have also been placed before this Court. The repeated emergence of allegations of this nature indicates a disturbing pattern of professional indiscipline which threatens to diminish the Bar’s standing as an integral component of the judicial process.

16.This Court deems it appropriate to reiterate the settled legal position:-

- *Article 21 of the Constitution provides that no person shall be deprived of their life and personal liberty except according to the procedure established by law. The right to a fair trial is a part of Article 21 and the same can be ensured only when the accused are defended by competent Counsel. It is also an essential element of natural justice and fairness inherent in the criminal justice system.*
- *Article 22(1) guarantees to every person the right to consult and to be defended by a legal practitioner of one’s choice.*
- *Article 39A requires the State to ensure equal opportunity for securing justice and to provide free legal aid where necessary.*



Any act, formal or informal, by a Bar Association or its members, preventing an accused from engaging Counsel of choice, is a direct assault on these constitutional guarantees.

17. The Advocates Act, 1961 and Bar Council of India Rules impose a solemn duty upon advocates to accept briefs consistent with their standing and not to refuse representation without special circumstances. Part VI, Chapter II of the Bar Council of India Rules, under “Standards of Professional Conduct and Etiquette”, imposes positive obligations on Advocates to uphold the dignity and independence of the profession. The relevant rules are extracted hereunder:

“Section I – Duty to the Court

1. An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. ...

Section II – Duty to the Client

... 11. An advocate is bound to accept any brief in the Courts or Tribunals or before any other authorities in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief. ...

19. An advocate shall not act on the instructions of any person other than his client or his authorised agent.”



18.In A.S. Mohammed Rafi v. State of Tamil Nadu [(2011) 1 SCC 688], the Hon'ble Supreme Court held that such resolutions are wholly illegal, against all traditions of the Bar, and against professional ethics. The relevant portions are extracted as under:-

“15.Several Bar Association all over India, whether High Court Bar Associations or District Court Bar Associations have passed resolutions that they will not defend a particular person or persons in a particular criminal case. Sometimes there are clashes between policemen and lawyers, and the Bar Association passes a resolution that no one will defend the policemen in the criminal case in court. Similarly, sometimes the Bar Association passes a resolution that they will not defend a person who is alleged to be a terrorist or a person accused of a brutal or heinous crime or involved in a rape case.

16.In our opinion, such resolutions are wholly illegal, against all traditions of the bar, and against professional ethics. Every person, however, wicked, depraved, vile, degenerate, perverted, loathsome, execrable, vicious or repulsive he may be regarded by society has a right to be defended in a court of law and correspondingly it is the duty of the lawyer to defend him.”

19.The principle has been reaffirmed in Rupashree H.R. v. State of Karnataka [MANU/SCOR/24033/2024], wherein a resolution of the Mysore Bar Association not to



defend a particular accused was quashed as unconstitutional.

The relevant portion is extracted as under:-

“3.In that view of the matter, we have proceeded ex-parte. Having perused the impugned Resolution, we are of the definite view that such a Resolution could not have been passed. Right to defend oneself is a Fundamental Right under Part III of the Constitution of India and further right to appear for a client is also a Fundamental Right being a part of carrying on one’s profession as a lawyer. As such, the said Resolution is hereby quashed.”

20.Thus, the law does not recognise “collective boycotts,” “informal understandings,” or “social embargoes” on appearance for any accused person.

....

22.This Court cannot turn a blind eye when the right to a fair trial is being compromised under the pretext of professional unity. It is to be reminded that the Bar is not a trade union; it is an institution of constitutional significance. Any attempt to convert it into a pressure group that dictates who may or may not be represented before a Court of law is nothing short of contempt for the rule of law.”

6.In the above cases, the Nagercoil Bar Association has filed an affidavit stating that there is no such resolution or circular



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restraining advocates from appearing for the accused. However, the petitioners claim that no advocate is appearing on behalf of them from Kanyakumari District. Considering the past conduct of the Bar members in Kanyakumari district and the claim of the petitioners, this petition is allowed with the following directions:

(i) The case in CC.No.703 of 2025 from the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari district is withdrawn and transferred to file of the Judicial Magistrate No.I, Valliyoor, Tirunelveli district.

(ii)The Judicial Magistrate No.I, Kuzhithurai, Kanyakumari shall send the above case records within a period of fifteen days from the date of receipt of a copy of this order to the Judicial Magistrate No.I, Valliyoor, Tirunelveli district, who in turn, on receipt of the case, shall proceed with the same. Consequently connected miscellaneous petition is closed.

20.04.2026

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To

- 1.The Judicial Magistrate No.I,
Kuzhithurai,
Kanyakumari district.
- 2.The Judicial Magistrate No.I,
Valliyoore,
Tirunelveli district.
- 3.The Sub Inspector of Police,
Marthandam Police Station,
Kanyakumari District.

Copy to

The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI, J.

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