



Crl.OP(MD)No.8884 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.8884 of 2024

and

Crl.M.P.(MD)No.6098 of 2024

1. Joseph

2. Angel Loothu Selvam ... Petitioners / Accused No.1 and 2

Vs.

1.The State of Tamil Nadu,
Rep by. The Inspector of Police,
Kalaiyarkovil Police Station,
Sivagangai District.
(Crime No.565 of 2012)

... 1st Respondent / *Complainant*

2. Arokiyasamy

... 2nd Respondent /
De facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the final report in CC No.195 of 2023 on the file of the learned Judicial Magistrate No.I, Sivagangai and quash as against the petitioners as the same is illegal and devoid of merits.

For Petitioner : Mr.B.Chakkaravarthi

For R-1 : Mr.Thanga Aravindh.B,
Government Advocate (Crl. Side)



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For R-2 : Mr.R.Balakrishnan

ORDER

Preface:

The inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (corresponding to Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023) is intended to prevent abuse of process and to secure the ends of justice. The power is extraordinary, to be exercised sparingly, and only when the complaint/charge sheet, even if taken at face value, does not disclose the commission of any offence, or when the proceedings are demonstrably vexatious, mala fide, or legally untenable.

2. The present petition is filed to quash the proceedings in C.C.No.195 of 2023 on the file of the learned Judicial Magistrate No.I, Sivagangai, arising out of Crime No.565 of 2012, registered for offences under Sections 147, 148, 447, 294(b), 506(ii) IPC and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act (hereinafter “TNPPDL Act”).



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Facts in brief:

3. The case of the prosecution, as borne out from the final report and the materials placed, is that the second respondent/*de facto* complainant, stated to be the Chairman of Kalaiyarkovil Panchayat Union, was running a stone workshop in Survey No. 197/14A1 at Mettupatti, Kalaiyarkovil, for several years, allegedly on lease from one Mrs. Agnes Marry. It is alleged that on 29.09.2012 at about 06.30 p.m., the petitioners (A1 and A2) and others trespassed into the workshop, damaged certain movables such as office shed/table/chair/showcase causing loss said to be Rs.10,000/-, used obscene words, and threatened the *de facto* complainant with dire consequences. It is also alleged that other accused threatened with sticks. On the complaint said to have been given on 22.09.2012, the first respondent police registered Crime No.565 of 2012 and filed the charge sheet on 05.11.2012. The petitioners contend that the charge sheet was not taken on file at that point, and that only after about 11 years, summons were received in C.C.No.195 of 2023.



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Case of the petitioners:

4. The petitioners submit that they are husband and wife, both teachers, and that the second petitioner purchased the subject property in Survey Nos.197/14A1 (3177 sq.ft.) and 197/25 (1077 sq.ft.) by a registered sale deed dated 10.11.2010 (Doc. No. 4629/2010) from Mrs. Agnes Marry, for construction of a house, and that patta stands in the name of the second petitioner. According to them, the dispute is essentially a property dispute, the *de facto* complainant is only an alleged lessee, the criminal case is a pressure tactic, and an enquiry by higher officials (referred to as an ADSP report) contains observations adverse to the *de facto* complainant.

5. It is further stated that the *de facto* complainant had filed a civil suit challenging the sale deed and withdrew the same on 10.07.2014, and therefore the continuation of criminal proceedings is an abuse of process. The petitioners further urge that the long delay in the matter being taken on file and summons being issued violates their right to speedy trial under Article 21 of the Constitution, and that Section 3 of TNPPDL Act is not attracted on the allegations.



Grounds:

6. The impugned proceedings arise out of a predominantly civil dispute relating to immovable property, which has been given a criminal colour to exert pressure on the petitioners. Even on a plain reading of the charge sheet, the essential ingredients of the alleged offences are not made out, particularly the offence under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, as there is no allegation of damage to any public property. The invocation of the criminal process after an inordinate delay of more than a decade, without satisfactory explanation, infringes the petitioners' right to a speedy trial under Article 21 of the Constitution. Continuation of the proceedings, in the above circumstances, would amount to an abuse of process of law and warrants interference under Section 482 Cr.P.C., 1973 / Section 528 BNSS, 2023, to secure the ends of justice.

Submissions:

7. The learned senior counsel for the petitioners would submit that the impugned criminal proceedings arise out of a pure property dispute and constitute a clear abuse of the criminal process. It is



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contended that the second petitioner purchased the subject property under a registered sale deed dated 10.11.2010 and that patta stands in her name, whereas the *de facto* complainant claims, at best, only a leasehold right. The dispute is therefore civil in nature. The learned senior counsel would argue that the *de facto* complainant, having filed and withdrawn a civil suit challenging the sale deed on 10.07.2014, cannot thereafter resort to criminal proceedings to settle a civil score.

8. It is further submitted that the essential ingredients of criminal trespass are not made out on the face of the charge sheet, as the petitioners claim lawful ownership and the question of possession is a matter for civil adjudication. The learned senior counsel would submit that Section 3 of the TNPPDL Act has been mechanically invoked, as the alleged damage pertains only to a private stone workshop and office articles, and there is no allegation that any “public property” was damaged.

9. It is contended that the proceedings suffer from gross delay, as the FIR is of the year 2012, while the case was taken on file only



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in 2023, thereby infringing the petitioners' right to a speedy trial under Article 21 of the Constitution. The learned senior counsel would finally submit that continuation of the prosecution, in the above circumstances, would amount to abuse of process of law and the case falls within the recognised parameters for interference under Section 482 Cr.P.C., 1973 / Section 528 BNSS, 2023.

10. The learned Government Advocate (Crl. side) would submit that the *de facto* complainant was in possession of the premises as a lessee, without cancelling the lease, the petitioners and others forcibly entered, caused damage, abused and threatened him, and therefore the ingredients of the IPC offences are made out and the matter requires trial.

11. The learned counsel appearing for the second respondent/*de facto* complainant disputes the petitioners' narration and submits that the property/title aspects are contested, that a police officer cannot render findings on civil title, that the report relied upon by the petitioners cannot be treated as determinative,



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and that the allegations disclose cognizable offences warranting prosecution.

12. The contours of the inherent power under Section 482 Cr.P.C., 1973 / Section 528 BNSS, 2023, are well settled. The jurisdiction is to be exercised sparingly, with circumspection, and only to prevent abuse of process or to secure the ends of justice.

13. In ***State of Haryana v. Bhajan Lal***¹, the Hon'ble Supreme Court illustratively carved out categories where quashment may be warranted, including cases where the allegations do not disclose any offence, where the proceedings are manifestly attended with mala fides, or where the criminal process is used for an ulterior purpose.

14. The Hon'ble Supreme Court has also cautioned that criminal proceedings ought not to be encouraged where the substance of the dispute is predominantly civil in nature, and where the criminal law is invoked chiefly to exert pressure. At the same time, merely because a civil remedy is available, the criminal law is

¹ 1992 Supp (1) SCC 335



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not barred if the foundational allegations disclose the ingredients of an offence.

15. At the stage of quash, the Court does not conduct a mini trial or weigh the defence. The test is whether, on a plain reading of the complaint/charge sheet and the accompanying materials, the essential ingredients of the alleged offences are made out, or whether the prosecution is barred by law or amounts to a manifest abuse of process.

16. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for determination:

17. The point that arises for consideration is whether the proceedings in C.C.No.195 of 2023 are liable to be quashed in exercise of inherent jurisdiction, either wholly or in part, on the grounds urged by the petitioners.



Analysis:

18. At the stage of quash, this Court does not conduct a mini trial or weigh the defence. The Court examines whether, on a plain reading of the charge sheet and the statements, the essential ingredients of the alleged offences are disclosed, and whether the prosecution is barred by law or is a manifest abuse of process.

19. The petitioners' principal plank is that they are the purchasers/owners of the property and therefore the offence of criminal trespass cannot stand. This contention, as framed, cannot be accepted as a rigid proposition in quash jurisdiction. Criminal trespass depends primarily on possession and the intent accompanying entry. Even an owner may, in a given factual setting, attract criminal liability if entry is alleged to be with intent to commit an offence, intimidate, insult or annoy a person in possession.

20. In the present case, the prosecution allegation is not merely of entry, but also of damage to articles, use of obscene words, and criminal intimidation, besides the alleged formation of unlawful assembly. Whether the *de facto* complainant was in possession as a



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lessee, whether the petitioners had a lawful right to enter in the manner alleged, and whether the alleged acts occurred, are matters requiring evidence.

21. Therefore, on the question of Sections 447, 294(b) and 506(ii) IPC, the allegations, if taken at face value, do disclose the basic ingredients, and this Court would not be justified in quashing those charges solely on the foundation that the petitioners claim title.

22. The prosecution case, as reflected in the charge sheet narration placed by the parties, is that the damage is to a stone workshop/office shed and office articles stated to be in the occupation of the *de facto* complainant. There is nothing in the stated allegation to show that the damaged property answers the description of “public property” so as to attract Section 3 of the TNPPDL Act.

23. The TNPPDL Act is a special statute aimed at preventing damage and loss to public property. On the facts narrated, the



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damaged articles are described as private movables/structures connected to a stone workshop allegedly run by the *de facto* complainant on lease.

24. In the absence of foundational allegations that the damaged property was “public property” within the meaning of the Act, continuation of prosecution under Section 3 of the TNPPDL Act would be legally untenable. Consequently, this Court is of the considered view that the charge under Section 3 of the TNPPDL Act cannot be sustained on the pleaded prosecution version and is liable to be quashed.

25. The charge sheet alleges that the petitioners and others formed an unlawful assembly and acted in furtherance of the common object. Whether the assembly was unlawful, what the common object was, and whether the essential ingredients are established, are typically matters of evidence. This Court, at the quash stage, would not normally dissect the evidence to determine whether the assembly actually had the requisite common object, particularly when the prosecution alleges a group act. Therefore,



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except to the extent the special statute charge under the TNPPDL Act is concerned, the offences under Sections 147 and 148 IPC cannot be quashed at this stage on the basis of defence materials.

26. The petitioners have urged that the case pertains to the year 2012 and that cognizance is shown as having been taken only in 2023, causing serious prejudice. This Court is conscious that an accused is entitled to a speedy trial and that unexplained, inordinate delay can, in appropriate cases, justify judicial intervention. However, the record placed in these submissions shows that the crime was registered in 2012 and the charge sheet is stated to have been filed in 2012 itself.

27. The subsequent administrative/court process by which the case came to be taken on file later, and the extent to which the delay is attributable to the prosecution or systemic causes, would require a fuller factual foundation than what is available in a quash petition based on limited papers.



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28. In the facts of this case, the delay ground, though not inconsequential, is better addressed by directing expeditious trial and by granting appropriate procedural protection regarding appearance, rather than terminating the prosecution for IPC offences which, on the face of the charge sheet, are alleged with specific overt acts. The criminal process cannot be permitted to be employed as a surrogate for civil remedies. Equally, where the allegations disclose offences involving intimidation, abuse, and damage, the matter must ordinarily go to trial.

29. The present order balances both concerns by removing a legally unsustainable special statute charge, while permitting adjudication of the remaining IPC allegations by the competent Trial Court, on evidence and in accordance with law.

30. In the result, this Criminal Original Petition is partly allowed. The proceedings in C.C.No.195 of 2023 on the file of the learned Judicial Magistrate No.I, Sivagangai, are quashed insofar as the offence under Section 3 of the TNPPDL Act is concerned.



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31. In respect of the remaining offences under Sections 147, 148, 447, 294(b) and 506(ii) IPC, the prayer for quash is rejected, and the prosecution shall proceed in accordance with law. Considering the nature of the case, the vintage of the occurrence, and the petitioners' employment status, the learned Judicial Magistrate No.I, Sivagangai, shall endeavour to complete the trial expeditiously, preferably within a period of six months from the date of receipt of a copy of this order.

32. The petitioners are permitted to file an application before the learned Trial Court seeking dispensation of personal appearance, and upon such application being filed, the learned Trial Court shall consider the same on its own merits and in accordance with law, and may insist on personal appearance only when their presence is indispensable for specific stages. Consequently, the connected miscellaneous petitions, if any, stand closed.

02.01.2026

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

- 1.The Judicial Magistrate No.I,
Sivagangai.
- 2.The Inspector of Police,
Kalaiyarkovil Police Station,
Sivagangai 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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