



Crl.OP(MD)No.12341 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 30.04.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.12341 and 12893 of 2025

and

Crl.M.P.(MD)No.10120 of 2025

Crl.O.P.(MD).No.12341 of 2025

Sahayaraj

... Petitioner/Accused No.

Vs.

1. The State of Tamilnadu,
Rep. by the Commissioner of Police,
Madurai City,
Madurai.
2. The Inspector of Police,
Thirupparankundram Police Station,
Madurai City,
Madurai.

.... Respondent / Complainant

3. Kumaresan

.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to direct the respondent no. 1 and 2 to provide



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appropriate Police Protection for the petitioner by considering the petitioner's representation dated 23.06.2025 and 26.06.2025.

For Petitioners : Mr. R.Aravindan
For R-1 & R-2 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)
For R-3 : Mr.H.Lakshmi Shankar

Crl.O.P.(MD).No.12893 of 2025

1.Sahayaraj
2.Selvam
3.Nandhakumar @ dayananthan

.... Petitioners

Vs.

1. The State of Tamil nadu
Rep through, The Inspector of Police,
Thirupparangundram Police Station,
Madurai City.
Crime No. 335 of 2025.

2. Kumaresan

.... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the criminal case registered in Crime No. 335 of 2025 on the file of the 1st respondent police and quash the same as against the petitioners are concerned.



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For Petitioners : Mr.R.Aravindan
For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)
For R-2 : Mr.H.Lakshmi Shankar

COMMON ORDER

Preface:

These two Criminal Original Petitions, though couched in different forms of relief, arise out of a single and intensely contested dispute concerning possession over an item of immovable property. One petition seeks police protection to enable the petitioner to take possession of the property, while the other seeks quashment of the FIR registered when such attempt to take possession allegedly resulted in acts of intimidation, abuse and demolition.

2. The controversy demonstrates, yet again, the delicate boundary between civil adjudication relating to title and possession on the one hand, and criminal law invoked in the wake of physical confrontation on the other. The existence of civil proceedings does not by itself sterilise the criminal law. Equally, criminal law cannot be permitted to become an instrument to perpetuate a disputed possession or to settle civil scores. The task of the Court, therefore, is



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to discern whether the petitioner is entitled to police aid for recovery of possession and whether the criminal case registered against him is one that deserves to be interdicted at the threshold.

3. Since the factual matrix, the rival parties, and the competing claims substantially overlap, both petitions are taken up together and are disposed of by this common judgment.

Prayer in CrL. O.P.(MD) No.12341 of 2025:

4. This Criminal Original Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking a direction to the respondent police to provide appropriate police protection to the petitioner by considering his representations dated 23.06.2025 and 26.06.2025.

Prayer in CrL. O.P.(MD) No. 12893 of 2025:

5. This Criminal Original Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to call for the records pertaining to Crime No.335 of 2025 on the file of



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the first respondent police and quash the same insofar as the petitioners are concerned.

The prosecution case in CrL. O.P.(MD) No.12893 of 2025:

6. The prosecution case, in essence, is that the second respondent / *defacto* complainant claims to have purchased the properties in Plot Nos.2 and 32 in Survey Nos.332/1A and 332/1B through an unregistered transaction from one Rajkumar as early as in the year 2008 and thereafter to have remained in possession thereof. According to him, he expended substantial sums for repairs and improvements and established a metal scrap business in the premises in the name and style of M/s. R.K. Metal.

7. It is alleged that after the death of the original owner Rajkumar, the first petitioner, claiming authority under a power of attorney allegedly executed by the legal heirs of the deceased, began asserting hostile rights over the property and attempted to evict the *defacto* complainant. This gave rise to civil litigation in the form of suits for permanent injunction in O.S.Nos.116 and 130 of 2024 on



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the file of the learned Additional District Munsif Court,
Thirumangalam.

8. The further accusation is that on 25.06.2025, while the employees of the *defacto* complainant were present in the godown, the petitioners, along with others including one Advocate Karthikeyan, entered the property with men and machinery, including a JCB, and attempted to demolish the godown so as to take forcible possession. On intimation, the police reached the spot, whereupon the accused allegedly fled.

9. On the basis of the complaint, Crime No.335 of 2025 came to be registered on 27.06.2025 for offences under Sections 192, 329(3), 296(b) and 351(2) of the Bharatiya Nyaya Sanhita, 2023, and Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.

The petitioner's case in CrL. O.P.(MD) No.12341 of 2025:

10. The petitioner, on the other hand, presents himself not as an aggressor but as the duly constituted power agent of the true



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owners. His case is that the property belonged to Rajkumar; that after his demise, his legal heirs, who are residing abroad, executed a registered power of attorney in his favour; and that he has therefore been entrusted with the duty of managing and protecting the property.

11. According to the petitioner, the third respondent / *defacto* complainant has unlawfully occupied the property by relying on a fabricated and unregistered document and by taking advantage of the absence of the owners from India. It is his case that the dispute had earlier travelled before the Revenue Divisional Officer under Section 145 Cr.P.C., and though the order of the Revenue Divisional Officer was interfered with by this Court in Crl.R.C.(MD)No.902 of 2024, this Court directed the civil Court to decide the issue regarding possession and granted liberty to the petitioner to take possession depending upon the result of such adjudication.

12. The petitioner would state that both the suits filed by the rival claimant were ultimately dismissed on 23.06.2025 by the learned Additional District Munsif, Thirumangalam, holding that the



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plaintiff therein failed to establish possession. On the strength of such dismissal and on the basis of the liberty reserved by this Court in the earlier criminal revision, the petitioner claims to have visited the property on 25.06.2025 with his Advocate only to take possession lawfully. His grievance is that instead of providing police assistance for implementation of what he perceives to be the effect of the earlier judicial orders, the respondent police prevented him from entering the premises and registered the present criminal case against him.

13. It is in those circumstances that the petitioner seeks police protection in Crl.O.P.(MD)No.12341 of 2025 and quashing of the FIR in Crl.O.P.(MD)No.12893 of 2025.

Grounds urged for quash and for direction:

14. The principal grounds on which the petitioner seeks relief are that the entire controversy is civil in nature; that the *defacto* complainant relies only on an unregistered document which does not confer title; that the civil suits filed by him have already been dismissed; that the FIR has been registered mechanically without



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proper appreciation of the earlier proceedings; that the petitioner acted under a claim of lawful authority flowing from the power of attorney and the earlier order of this Court; that no public property was involved so as to attract Section 3(1) of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992; and that the criminal case is a retaliatory attempt to obstruct the petitioner from enjoying the fruits of the civil adjudication.

15. The petitioner also contends that the police have failed to act upon his representations seeking protection, and that his right to property under Article 300-A of the Constitution of India cannot be defeated by criminal proceedings allegedly engineered by a rival claimant whose own civil suits have failed.

Arguments on either side:

16. The learned counsel for the petitioner submitted that both the petitions arise out of the same transaction and must be read together. According to the learned counsel, the petitioner is not a trespasser but a duly authorised power agent of the legal heirs of the original owner Rajkumar. It was submitted that the wife and



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daughter of Rajkumar are residing in London, the son is residing in the United States, and all of them have executed a registered power of attorney in favour of the petitioner.

17. The learned counsel would contend that the entire claim of the *defacto* complainant is founded only on an unregistered document, which the other side loosely described as a sale deed, though in substance it is at best only an agreement. Such document, according to the learned counsel, cannot confer title. It was further argued that the very genuineness of the document is under serious doubt and that separate criminal proceedings have already been initiated in that regard at the instance of the true owners.

18. The learned counsel then took the Court through the earlier proceedings under Section 145 Cr.P.C. and the order passed in Crl.R.C.(MD)No.902 of 2024. Particular emphasis was laid on the observations made therein that the unregistered document did not pass title and that the claimant thereunder had not established lawful or settled possession. It was submitted that this Court, while allowing the revision, directed the civil Court to determine whether



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the plaintiff had a right to be in possession and reserved liberty in favour of the present petitioner to take possession subject to the result of that finding.

19. The learned counsel submitted that the civil Court, after trial, dismissed the suits filed by the rival claimant on 23.06.2025 and thereby negated his claim of possession. According to the learned counsel, once that happened, the liberty reserved by this Court became immediately available to the petitioner, and therefore his visit to the property on 25.06.2025 cannot be branded as unlawful.

20. The learned counsel vehemently argued that the FIR has been registered in complete disregard of the earlier judicial orders. It was submitted that instead of protecting the lawful rights of the power agent of the true owners, the police have treated him as a trespasser at the instance of a person whose title and possession stood disbelieved in prior proceedings. It was further argued that the allegation of forcible entry and demolition is exaggerated, that the petitioner is willing to face lawful proceedings if any real offence is



made out, but that the criminal law cannot be used to deny him his lawful right to possession.

21. In support of the plea for quashing, the learned counsel relied upon ***Jit Vinayak Arolkar v. State of Goa***¹, ***Anukul Singh v. State of Uttar Pradesh***², ***Md. Ibrahim v. State of Bihar***³, and ***Sheila Sebastian v. R. Jawaharaj***⁴, to contend that a civil or property dispute cannot be dressed up as a criminal case unless the basic ingredients of the penal provisions are clearly disclosed; and that allegations of forgery or cheating cannot be sustained merely because one party asserts title under a disputed document.

22. The learned counsel appearing for the second respondent resisted both petitions. The sum and substance of the submission was that the petitioner is attempting to convert a contested claim of title into a police-assisted dispossession. According to the learned counsel, even if there is a dispute about the legal efficacy of the document relied upon by the second respondent, the fact remains

1 2025 SCC OnLine SC 31

2 2025 INSC 1153

3 2009 8 SCC 751

4 AIR 2018 SC 2434



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that he has been in actual possession of the property for a long period and has been carrying on business from the premises.

23. The learned counsel submitted that the proceedings before the Revenue Divisional Officer themselves indicated that the second respondent was in possession and that the controversy before the authorities was whether such possession could be protected. It was argued that the petitioner is reading the revisional order of this Court in an impermissibly expansive manner. The liberty reserved therein, according to the learned counsel, was never intended to authorise self-help, physical dispossession, or the use of police force to throw out a person in occupation.

24. The learned counsel further submitted that the doctrine of settled possession squarely applies, and that even a true owner cannot, by use of force, dispossess a person who is in peaceful and settled possession. The proper remedy, according to the second respondent, is to institute appropriate civil proceedings for recovery of possession and obtain a decree executable in accordance with law. The learned counsel emphasised that the dismissal of the injunction



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suits does not by itself entitle the petitioner to enter the property with machinery and men and take possession by force.

25. It was also argued that an appeal has already been preferred against the dismissal of the civil suits and that therefore the petitioner cannot contend that the entire matter has attained finality. According to the learned counsel, the petitioner has suppressed the pendency of the appellate proceedings while seeking police aid.

26. The learned counsel also questioned the transparency of the petitioner's status as power of attorney holder and submitted that the principals themselves have not come forward. It was contended that the events of 25.06.2025 are not innocuous and that the FIR reflects a real incident involving attempted demolition and disturbance of the premises. Therefore, it was argued that the FIR cannot be quashed at the threshold.

27. In support of these submissions, the learned counsel relied upon ***Rame Gowda (D) by LRs. v. M. Varadappa Naidu (D) by***



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LRs.⁵ and Maria Margarida Sequeira Fernandes v. Erasmo Jack de Sequeira⁶, to contend that settled possession cannot be disturbed except by due process of law, though a mere caretaker or licensee cannot claim independent rights against the true owner.

28. The learned Government Advocate (Crl. Side) submitted that insofar as the prayer for police protection is concerned, the police would abide by any direction issued by this Court. Insofar as Crime No.335 of 2025 is concerned, it was submitted that the matter is under investigation and that the allegations are yet to be fully enquired into.

Point for consideration:

29. In the light of the rival submissions, the following points arise for consideration:

(i) Whether the petitioner in Crl.O.P.(MD)No.12341 of 2025 is entitled to a direction for police protection to enable him to take possession of the property in dispute.

⁵ AIR 2004 SC 4609

⁶ Air 2012 SC 1727



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(ii) *Whether the FIR in Crime No.335 of 2025 is liable to be quashed in its entirety, or in part, in exercise of the inherent jurisdiction of this Court under Section 528 BNSS.*

Governing legal principles:

30. The settled principles governing exercise of the inherent jurisdiction to quash criminal proceedings are too well entrenched to require elaborate restatement. Where the complaint, even if taken at face value, does not disclose the essential ingredients of an offence, or where the criminal process is manifestly attended by mala fides and is deployed to settle a predominantly civil score, the High Court would be justified in intervening. At the same time, where the complaint discloses factual assertions which require investigation and where the Court would have to embark upon appreciation of disputed facts and materials, the FIR ought not to be interdicted at its incipient stage. These propositions stand reinforced in the recent decisions cited by the petitioner.

31. Equally settled is the principle that possession, even when divorced from perfect title, is not to be disturbed by force. A person



in settled possession cannot be thrown out by self-help. The rightful claimant must ordinarily resort to due process of law. That principle is reflected in **Rame Gowda**⁷. At the same time, the protection of possession cannot be extended in the abstract to a pure caretaker or licensee whose possession is wholly derivative of the owner's title, as explained in **Maria Margarida**⁸. Whether a person is in settled possession in his own right or only in a derivative or permissive capacity depends upon the facts of each case.

Analysis:

32. The petitioner builds his case for police protection principally on two circumstances: first, the liberty reserved in his favour by this Court in Crl.R.C.(MD)No.902 of 2024; and second, the subsequent dismissal of the rival claimant's injunction suits on 23.06.2025.

33. There can be no quarrel with the proposition that the unregistered document relied upon by the rival claimant does not, by itself, pass title. There can equally be no gainsaying that the

⁷ *Supra*

⁸ *Supra*



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dismissal of the injunction suits is an event of considerable legal significance. However, the question before this Court is not one of abstract title, but whether such circumstances confer upon the petitioner a present right to obtain police aid for taking possession from a rival claimant who admittedly claims to be in physical occupation and whose occupation has already led to civil and criminal proceedings.

34. In the considered view of this Court, the answer must be in the negative. The liberty reserved in the earlier criminal revision cannot be construed as a charter for extra-judicial dispossession. That order must be read in the light of the very authorities to which it referred. Due process remains the controlling idea. A litigant cannot convert an observation reserving liberty into an executable mandate for physical recovery through police force, unless there exists a clear decree or direction capable of such enforcement.

35. The dismissal of the injunction suits filed by the rival claimant certainly weakens his asserted right to protect possession. Yet, a dismissal of an injunction suit is not, without more, a decree



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for recovery of possession in favour of the opposite side. Nor can such dismissal be automatically translated into a police-assisted restoration of possession. If the petitioner and the principals whom he claims to represent are of the view that they are entitled to recovery of possession, the law provides them with appropriate civil remedies.

36. This Court is also unable to overlook that, according to the petitioner himself, he went to the property on 25.06.2025 to take possession, and that such attempt has generated a criminal case alleging use of machinery and disturbance of the existing structure. Once such a factual confrontation has already occurred, any direction by this Court for police protection at this stage would amount, in substance, to authorising one side to alter the factual status on the ground in the teeth of a live and combustible dispute. The inherent jurisdiction of this Court cannot be employed for such purpose.



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37. Therefore, this Court holds that the petitioner is not entitled to a direction for police protection for taking possession of the property.

38. The next question is whether the FIR deserves to be quashed. The petitioner is correct in contending that the background of the dispute is overwhelmingly civil. The parties are locked in contest over title, possession and legal entitlement. There are allegations and counter-allegations regarding an unregistered document, its genuineness, power of attorney, prior proceedings under Section 145 Cr.P.C., and the effect of the civil Court's judgment. No doubt, the criminal law cannot be permitted to become a substitute for civil adjudication.

39. Yet, the FIR in the present case is not founded merely on the assertion that the petitioners have no title. The gravamen of the accusation is that on a particular date, namely 25.06.2025, the petitioners and others came to the property, entered the premises, attempted to demolish the godown using a JCB, abused and intimidated persons present there, and sought to take forcible possession. Whether these allegations are true, exaggerated, or



wholly false is a matter of investigation. At this stage, this Court cannot undertake a roving enquiry into photographs, rival factual versions, or disputed claims of possession.

40. Merely because the petitioners claim lawful authority or even superior title, the criminal law would not stand excluded if the allegation is of forcible entry, intimidation, abuse, or damage to property. A claim of right may ultimately have evidentiary relevance, and may even furnish a defence to some allegations; but it does not, at the threshold, erase the factual accusations contained in the FIR.

41. The decisions relied upon by the petitioner, including **Jit Vinayak Arolkar**⁹, **Anukul Singh**¹⁰, **Md. Ibrahim**¹¹, and **Sheila Sebastian**¹², undoubtedly emphasise that a civil dispute ought not to be criminalised and that the ingredients of the offences must be specifically made out. But those authorities do not lay down that whenever the background is civil, an FIR alleging a physically violent or coercive incident must necessarily be quashed. Rather, they require the Court to examine whether the FIR is a mere dressed-up civil claim or whether it discloses a distinct criminal occurrence. On

⁹*Supra*
¹⁰*Supra*
¹¹*Supra*
¹²*Supra*



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the allegations as they stand, this Court is unable to say that the FIR, in its entirety, is a pure civil camouflage.

42. Therefore, this Court is of the view that while the FIR cannot be quashed in toto at this stage and this Court is not inclined to interdict the investigation. The Investigating Officer shall, however, bear in mind the civil background of the dispute, the prior proceedings between the parties, the judgment in the civil suits, and the earlier revisional order of this Court, and shall investigate the matter with due objectivity and without being influenced merely by the assertion of title from either side.

43. The prayer for police protection sought in Crl.O.P.(MD)No. 12341 of 2025 cannot be granted, since this Court cannot, in exercise of its inherent jurisdiction, facilitate recovery of possession through police aid in the absence of an executable adjudication specifically entitling the petitioner to such recovery and in the face of a live dispute regarding actual occupation.



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44. The prayer for quashing in Crl.O.P.(MD)No.12893 of 2025 also cannot be accepted in its entirety, since the FIR contains allegations of a distinct occurrence involving alleged forcible entry, abuse, intimidation and attempted demolition, which call for investigation.

Epilogue:

45. Property disputes are fertile grounds for the misuse of both civil and criminal process. The true discipline of law lies in insisting that rights over immovable property be worked out through legally sanctioned remedies and not through muscular assertion on the one hand or retaliatory criminalisation on the other. Courts must therefore be vigilant against both excesses: against the attempt to convert a civil title dispute into a criminal prosecution, and equally against the attempt to invoke criminal jurisdiction for police-backed possession without due process.

46. The present case illustrates both perils. The petitioner cannot seek police aid to achieve what, in substance, amounts to recovery of possession from a rival occupant outside the ordinary



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process of execution or civil remedy. At the same time, the police cannot allow the civil background to be obliterated while investigating the criminal case. The law must now take its course in both arenas, each confined to its legitimate field.

47. In the result,

(i) CrI.O.P.(MD)No.12341 of 2025 is dismissed.

(ii) CrI.O.P.(MD)No.12893 of 2025 is also dismissed.

(iii)The first respondent police are at liberty to proceed with the investigation in accordance with law.

(iv) It is made clear that the observations contained in this order are only for the purpose of deciding these petitions and shall not influence either the civil appellate proceedings or the investigation on facts.

(v) Consequently, connected miscellaneous petitions is closed.

30.04.2026

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

1. The Commissioner of Police,
Madurai City,
Madurai.
2. The Inspector of Police,
Thirupparankundram Police Station,
Madurai City,
Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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