



Crl.OP(MD)Nos. 18111 and 21451 of 2025

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2026

PRONOUNCED ON : 01.06.2026

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.18111 and 21451 of 2025

and

Crl.M.P.(MD)No.18464 of 2025

Crl.O.P.(MD).No.18111 of 2025

1. Kanagaraj @ Rasukutty

2. Thangam

... Petitioners/Accused

Vs.

1. The State of Tamilnadu,
Rep. by the Deputy Superintendent of Police,
South Police Station,
Thoothukudi District.

2. The Inspector of Police,
South Police Station,
Thoothukudi District.
Crime No.533/2019.

..... Respondent / Complainant

3. P.K.Ramkumar

.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for records relating to impugned charge sheet in S.C.No.62 of 2020 on the file of the Learned Sessions Judge, Special



Crl.OP(MD)Nos. 18111 and 21451 of 2025

WEB COPY

Judge for Trial of cases under SC/ST (POA) Act Thoothukudi and
quash the same.

For Petitioners : Mr.V.Balasundarakumar
For R-1 : Mr.S.Ravi,
Additional Public Prosecutor
For R-2 : Mr.R.Amarnath

Crl.O.P.(MD).No. 21451 of 2025

1. S.Velsankar
2. P. Balasubramanian
3. M.Jesu Balan @ Kurumpur Bala
... Petitioners/Accused

Vs.

1. The State of Tamilnadu,
Rep by. the Deputy Superintendent of Police,
South Police Station,
Thoothukudi District.
2. The Inspector of Police,
South Police Station,
Thoothukudi District.
Crime No.533/2019.
..... Respondent / Complainant
3. P.K.Ramkumar
.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of
BNSS, 2023, to call for the records relating to impugned charge sheet



Crl.OP(MD)Nos. 18111 and 21451 of 2025

WEB COPY

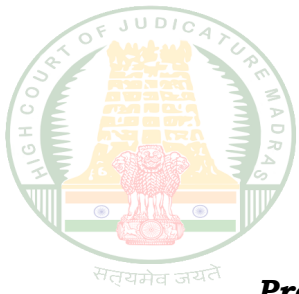
in SC.No.62/2020 on the file of the learned Sessions Judge, Special Judge for Trial of cases under SC/ST(POA) Act, Thoothukudi and quash the same.

For Petitioners : Mr.Aayiram K.Selvakumar
For R-1 : Mr.S.Ravi,
Additional Public Prosecutor
For R-2 : Mr.R.Amarnath

COMMON ORDER

These Criminal Original Petitions have been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashment of the proceedings in S.C.No.62 of 2020 pending on the file of the learned Sessions Judge, Special Court for Trial of Cases under the SC/ST (Prevention of Atrocities) Act, Thoothukudi, arising out of Crime No.533 of 2019 on the file of the Thoothukudi South Police Station.

2. Since the factual matrix, prosecution narrative, legal submissions and issues involved in both the Criminal Original Petitions are substantially interconnected and arise out of the very same Sessions Case, both the petitions are taken up together and are being disposed of by this common order.

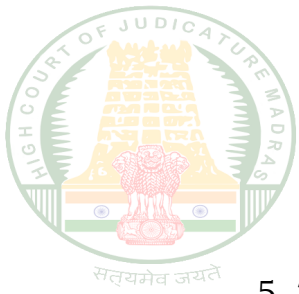


WEB COPY

Prologue:

3. The present batch of cases presents before this Court an extremely grave and disturbing prosecution narrative involving a brutal daylight murder allegedly executed in the vicinity of a Court campus pursuant to a meticulously orchestrated criminal conspiracy. The allegations portray not merely an ordinary homicide, but an occurrence allegedly conceived as an act of vengeance, executed in public view and allegedly sustained by an organized network of accused persons assigned with distinct operational roles.

4. The petitioners seek quashment of the prosecution primarily on the ground that no overt act has been attributed to them and that the prosecution rests only upon inadmissible confessional statements and inferential allegations of conspiracy. The respondents, on the other hand, contend that the petitioners formed part of the larger conspiracy and unlawful assembly, and that the materials collected during investigation disclose sufficient *prima facie* grounds warranting a full-fledged trial.



WEB COPY

5. This Court is therefore called upon to examine the contours of the inherent jurisdiction under Section 528 BNSS in the context of a prosecution involving allegations of criminal conspiracy, unlawful assembly and murder under Sections 147, 148, 120-B and 302 IPC read with Section 3(2)(v) of the SC/ST (POA) Act.

Case of the prosecution:

6. The prosecution case, as reflected in the FIR and final report, is that the deceased Sivakumar had earlier been implicated in the murder of one Athipalam, who was the brother of A-1/Rajesh @ Rajeswaran and A-19/Ramesh. Owing to the said prior occurrence, longstanding enmity allegedly prevailed between the factions.

7. According to the prosecution, on 20.08.2019, all the accused persons allegedly assembled at Korampallam Kulathukarai and entered into a criminal conspiracy to eliminate Sivakumar when he came to attend proceedings before the District Court, Thoothukudi, on the following day.

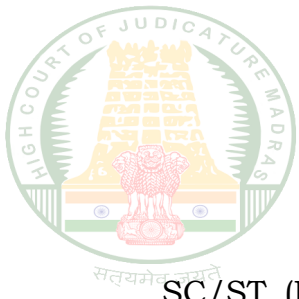


WEB COPY

8. It is the further case of the prosecution that on 21.08.2019 at about 9.30 a.m., near the Court Post Office situated on the Thoothukudi-Tiruchendur Main Road, the deceased Sivakumar was proceeding towards the Court along with witnesses Muthukumar and Selvam, when Accused Nos.1 to 4 and 6 to 8 allegedly waylaid him and attacked him with aruvals and knives on various parts of his body, causing instantaneous fatal injuries.

9. The prosecution further alleges that all the remaining accused persons, including the present petitioners, were strategically stationed at various points surrounding the Court campus in order to monitor the movement of the deceased and ensure that he did not escape alive. The accused allegedly arrived in multiple two-wheelers and a Bolero vehicle and occupied designated locations in furtherance of the conspiracy.

10. Based on the complaint lodged by the *de facto* complainant, Crime No.533 of 2019 was registered on the file of the Thoothukudi South Police Station for offences under Sections 147, 148, 341, 294(b), 302 and 506(ii) IPC and Section 3(2)(v) of the



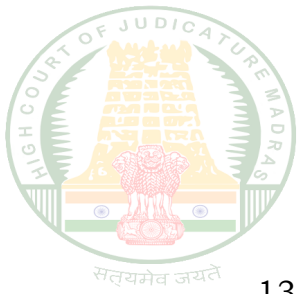
Crl.OP(MD)Nos. 18111 and 21451 of 2025

SC/ST (POA) Act. After investigation, final report came to be filed against 21 accused persons, including the petitioners herein, who are the Accused Nos.9,10,12,17&18. The case is presently pending as S.C.No.62 of 2020 before the learned Sessions Judge, Special Court for Trial of Cases under the SC/ST (POA) Act, Thoothukudi.

Grounds for quash:

11. The learned counsel appearing for the petitioners would contend that the petitioners are wholly innocent and have been falsely implicated without any legally sustainable material. According to the petitioners, no overt act whatsoever has been attributed to them either in the FIR, inquest report or witness statements.

12. It is further contended that the prosecution witnesses examined during investigation have not implicated the petitioners in the actual assault and that no incriminating recovery has been effected from them. The petitioners would submit that the prosecution seeks to implicate them merely because of alleged antecedents and their alleged acquaintance with the principal accused.



WEB COPY

13. The learned counsel further argued that the prosecution case rests substantially upon the alleged confession statements of co-accused persons, which cannot constitute substantive evidence in law. Reliance was placed upon the decisions in ***Kashmira Singh v. State of Madhya Pradesh***¹, ***Suresh Budharmal Kalani v. State of Maharashtra***² and ***Dipakbhai Jagdishchandra Patel v. State of Gujarat***³ to contend that confession of a co-accused cannot independently form the basis for sustaining prosecution in the absence of corroborative material.

14. The petitioners also placed reliance upon ***State of Haryana v. Bhajan Lal***⁴ to contend that when the uncontroverted allegations and the materials collected during investigation do not disclose the commission of any offence against the accused, the proceedings are liable to be quashed.

15. Reliance was also placed upon ***Satish Mehra v. State***⁵ (NCT of Delhi) to contend that criminal law cannot be permitted to

1 1952 AIR 159

2 1998 (7) SCC 337

3 AIR 2019 SC 3363

4 1992 Suppc(2) SCC 335

5 Crl.A.No.2834 of 2012

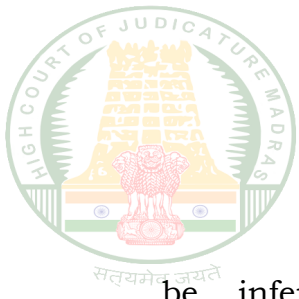


WEB COPY

operate as a fishing or roving enquiry in the absence of definite incriminating material.

16. Per contra, the learned Additional Public Prosecutor appearing for the first respondent and the learned counsel appearing for the *de facto* complainant vehemently opposed the petitions contending that the petitioners are active participants in a deeply entrenched criminal conspiracy. According to the respondents, all the accused persons assembled on 20.08.2019 and entered into a conspiracy to eliminate the deceased. Pursuant to such conspiracy, they allegedly occupied strategic locations around the Court campus on the date of occurrence to facilitate the murder.

17. The prosecution specifically relies upon the statements of LW-19, LW-20, LW-21, LW-23, LW-25, LW-26, LW-27, LW-30, LW-31 and LW-32, who allegedly speak about the conspiracy meeting and the coordinated movement of the accused persons. It is further contended that conspiracy is ordinarily hatched in secrecy and direct evidence is seldom available. Therefore, conspiracy is necessarily to



WEB COPY

be inferred from surrounding circumstances, conduct and coordinated acts of the accused persons.

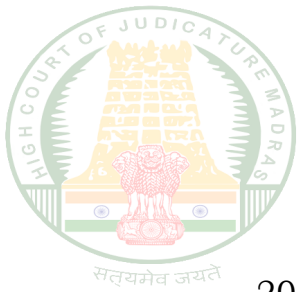
18. Reliance was placed upon ***Mohd. Khalid v. State of West Bengal⁶***, ***Yogesh @ Sachin Jagdish Joshi v. State of Maharashtra⁷*** and ***State (NCT of Delhi) v. Navjot Sandhu⁸*** to contend that every conspirator need not commit an overt act and that conspiracy may legitimately be established through circumstantial evidence.

19. The respondents further contend that this Court had earlier directed conduct of trial inside prison premises with extensive witness protection measures owing to the serious threat perception surrounding the case. It is alleged that even the eyewitness Muthukumar was subsequently murdered. The respondents therefore submit that the present case involves grave offences affecting public order and administration of justice and that the materials collected during investigation clearly disclose a *prima facie* case warranting trial.

⁶ AIR ONLINE 2002 SC 266

⁷ AIR 2008 SC 2991

⁸ Appeal (Crl.) 373-375 of 2004



WEB COPY

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

Points for consideration:

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

(i) Whether the materials collected during investigation disclose *prima facie* ingredients constituting offences against the petitioners?

(ii) Whether the prosecution against the petitioners rests solely upon inadmissible confessional statements of co-accused?

(iii) Whether the present case falls within the parameters laid down in ***State of Haryana v. Bhajan Lal***⁹ warranting exercise of inherent jurisdiction under Section 528 BNSS?

Analysis:

22. The inherent jurisdiction of the High Court under Section 528 BNSS, corresponding to Section 482 Cr.P.C., is undoubtedly wide, but equally circumscribed by settled judicial discipline. Such jurisdiction is intended to prevent abuse of process or secure the

⁹ Supra 4



WEB COPY

ends of justice and not to conduct a meticulous evaluation of evidence as though in a full-fledged trial.

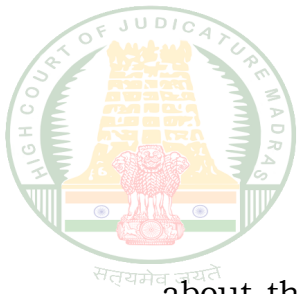
23. In ***State of Haryana v. Bhajan Lal***¹⁰, the Hon'ble Supreme Court authoritatively held that quashing is justified only where the allegations, even if taken at face value, do not disclose any offence or where the prosecution is manifestly mala fide.

24. Equally significant is the principle reiterated in ***Amit Kapoor v. Ramesh Chander***¹¹ wherein the Hon'ble Supreme Court observed that at the stage of framing of charge, the Court is concerned not with proof but with strong suspicion that the accused has committed an offence.

25. In the present case, this Court is unable to accept the contention that the prosecution is founded solely upon inadmissible confessional statements. The materials collected during investigation, as reflected in the counter affidavits and witness statements, indicate that multiple witnesses have allegedly spoken

¹⁰Supra 4

¹¹AIR ONLINE 2022 SC 668



Crl.OP(MD)Nos. 18111 and 21451 of 2025

WEB COPY

about the presence and coordinated movement of the petitioners in and around the Court campus.

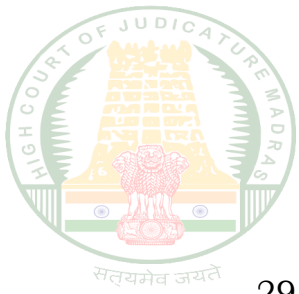
26. The prosecution narrative does not portray the petitioners as accidental bystanders. On the contrary, the allegation is that they were strategically stationed at designated locations in furtherance of the conspiracy and unlawful assembly.

27. The law relating to conspiracy is too well settled to admit of any ambiguity. In **Kehar Singh v. State**¹² (Delhi Administration), the Hon'ble Supreme Court held that the gist of the offence of conspiracy lies in the agreement between the parties.

28. Similarly, in **Mohd. Khalid v. State of West Bengal**¹³, it was held that every conspirator need not commit an overt act and that conspiracy is ordinarily proved through circumstantial evidence.

¹² 1998 AIR 1883

¹³ Supra 6



WEB COPY

29. In **State (NCT of Delhi) v. Navjot Sandhu**¹⁴, the Hon'ble Supreme Court observed that mostly, conspiracies are proved by circumstantial evidence, as the conspiracy is seldom an open affair.

30. This Court also finds considerable force in the submission of the respondents that at the stage of quashment or framing of charge, the Court cannot conduct a roving enquiry into admissibility, reliability or sufficiency of evidence. Such an exercise would amount to conducting a mini-trial, which is impermissible.

31. The contention relating to inadmissibility of confessional statements also cannot presently enure to the benefit of the petitioners at this stage, especially when the prosecution relies not merely upon confession statements but also upon witness statements, recoveries and surrounding circumstances.

32. The gravity of the allegations also cannot be lost sight of. The occurrence is alleged to have taken place near the Court campus in broad daylight. The prosecution further alleges subsequent murder of an eyewitness and persistent threat to surviving

¹⁴ Supra 8



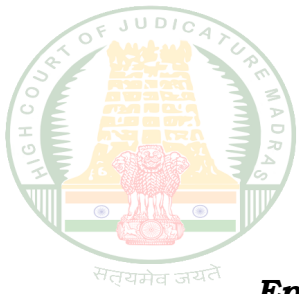
WEB COPY

witnesses. This Court had earlier directed prison trial with witness protection measures in view of the exceptional circumstances surrounding the case.

33. In ***Amanullah v. State of Bihar***¹⁵, the Hon'ble Supreme Court cautioned that prosecutions involving grave offences of murder ordinarily ought not to be interdicted at the threshold unless the allegations are wholly absurd or inherently improbable.

34. This Court is of the considered opinion that the materials collected during investigation, when taken at face value, disclose sufficient *prima facie* grounds warranting a full-fledged trial. The petitioners may undoubtedly raise all permissible factual and legal defences before the Trial Court during the course of trial. However, this Court does not find the present case to be one falling within the exceptional categories warranting quashment under Section 528 BNSS.

152011 (6) SCC 699



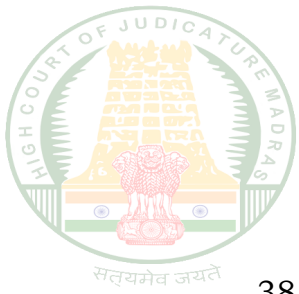
WEB COPY

Epilogue:

35. Criminal conspiracy is seldom conceived in public gaze. It often operates through silence, coordinated conduct and carefully distributed roles. Courts exercising jurisdiction under Section 528 BNSS cannot dissect the prosecution case with forensic exactitude at the threshold and prematurely terminate a prosecution where the investigative materials disclose a coherent *prima facie* narrative requiring judicial examination during trial.

36. The power to quash is an extraordinary constitutional safeguard against manifest injustice; it is not intended to supplant the function of a Trial Court by conducting a microscopic appreciation of evidence before witnesses enter the witness box.

37. In the present case, this Court finds that the prosecution materials disclose sufficient foundational circumstances connecting the petitioners with the alleged conspiracy and unlawful assembly. Whether such materials ultimately mature into proof beyond reasonable doubt is a matter exclusively within the province of trial.



Crl.OP(MD)Nos. 18111 and 21451 of 2025

WEB COPY

38. In the result, both the Criminal Original Petitions stand dismissed. Consequently, connected miscellaneous petition is closed.

39. The learned Sessions Judge, Special Court for Trial of Cases under the SC/ST (POA) Act, Thoothukudi, is directed to proceed with the trial in S.C.No.62 of 2020 expeditiously and preferably on day-to-day basis, uninfluenced by any observations made in this order, which are confined solely for the purpose of deciding these quash petitions.

01.06.2026

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

1. The learned Sessions Judge,
Special Court for Trial of Cases under the SC/ST (POA) Act,
Thoothukudi.
2. The Deputy Superintendent of Police,
South Police Station,
Thoothukudi District.
3. The the Inspector of Police,
South Police Station,
Thoothukudi District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.OP(MD)Nos. 18111 and 21451 of 2025

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)Nos.18111 and 21451 of 2025

01.06.2026