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).No.19384 of 2025
and
Crl.M.P.(MD)No.16211 of 2025

N.S.Aruna Baskar
... Petitioner/Accused

Vs.

1. The State of Tamilnadu
   Rep. by the Inspector of Police,
   IDOL Wing,
   Chennai.
   In Crime No. 23 of 2021.

2. The Inspector of Police,
   IDOL Wing CID,
   Trichy. .... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to FIR in Crime No. 23/2021 dated 30.12.2021 on the file of the 1st respondent police and quash the same as against the petitioner.

For Petitioner	:	Mr.Karunanithi, For Mr.P. Vadivel
For Respondents	:	Mr.M.Sakthi Kumar, Government Advocate (Crl. side)s

ORDER

The present Criminal Original Petition invokes the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, corresponding to Section 482 Cr.P.C., seeking quashment of the First Information Report in Crime No.23 of 2021 dated 30.12.2021 on the file of the first respondent police.

2. The case projects an intriguing intersection between criminal investigation, antiquarian heritage, private religious possession, statutory registration under the Antiquities and Art Treasures Act, 1972, and the constitutional balance between preservation of national heritage and protection of individual liberty.

3. The petition concerns a “Maragathalingam”, asserted by the petitioner to be an ancestral family deity and a duly registered antiquity under Section 16 of the Antiquities and Art Treasures Act, 1972. The prosecution, however, disputes not merely the lawful

custody, but the very identity of the idol covered under the registration certificate, alleging material discrepancies in measurements and circumstances warranting continued investigation.

4. The matter therefore requires this Court to carefully examine the limits of inherent jurisdiction in FIR quash proceedings, particularly where disputed questions touching identity, provenance, historical ownership, and possible fabrication of supporting documents are yet to be investigated.

Case of the prosecution:

5. The prosecution case, in brief, is that on 30.12.2021, the second respondent police received secret information that an antique idol was unlawfully kept at the residence situated at B2, Langval Homes, Arulanandha Nagar, Thanjavur. Acting upon such information, the respondent police conducted a search at the said premises and enquired the petitioner regarding the existence of any antique idol in his custody. The petitioner is stated to have informed

the police that his father possessed one “Maragathalingam” and that the same was kept in a bank locker.

6. Thereafter, upon communication with his father over cellphone, the petitioner allegedly retrieved the said Maragathalingam from the bank locker and produced it before the respondent police. The prosecution would further state that when the petitioner was questioned regarding the source of the Maragathalingam and called upon to produce documents substantiating lawful possession, he failed to furnish satisfactory explanation or documentary proof. Consequently, suspecting unlawful possession, the respondent police seized the Maragathalingam under a mahazar in the presence of the Village Administrative Officer and witnesses.

7. The seized idol was described as measuring 8 cm in height, 11.6 cm in breadth, 24 cm in circumference and weighing approximately 530 grams, with visible damage in portions of the structure.

8. The FIR came to be registered for the offences under Sections 41(1)(d) and 102 Cr.P.C., corresponding to Sections 35 and 102 BNSS, relating to suspicious possession and seizure of suspected property. During investigation, according to the respondent police, serious doubts arose regarding the genuineness of the petitioner's claim that the idol seized was the same idol for which a registration certificate had been obtained from the Archaeological Survey of India under the Antiquities and Art Treasures Act, 1972.

9. The prosecution specifically relies upon discrepancy in measurements between the idol covered by the registration certificate and the idol actually seized. The registration certificate allegedly refers to an idol measuring 7.62 cm in height and 22.86 cm in width weighing 534 grams, whereas the idol seized measured 8 cm in height, 11.6 cm in width and 530 grams in weight.

10. The respondent police further contend that the so-called surrender/release deed allegedly executed by one Narayana Sastrigal in favour of the petitioner's father is an unregistered and suspicious document lacking attestation and authenticity. According to the

prosecution, investigation is still in progress and the identity, origin, lawful ownership and provenance of the idol are matters requiring deeper scrutiny.

Grounds for quash:

11. The petitioner seeks quashment primarily on the following grounds:

11.1. The petitioner contends that the Maragathalingam had already been registered before the Archaeological Survey of India under Section 16 of the Antiquities and Art Treasures Act, 1972 and a certificate of registration was issued in favour of the petitioner's father on 05.01.2021 after due enquiry.

11.2. It is further contended that the Maragathalingam is an ancestral family deity associated with Perugavazhthan Anna Chatram and has been worshipped by the petitioner's family for generations. The petitioner submits that mere possession of an antique idol, especially one duly registered under law, cannot by itself constitute suspicious possession or criminal conduct.

11.3. According to the petitioner, the FIR was registered mechanically without conducting proper preliminary enquiry and continuation of investigation amounts to abuse of process of law. The petitioner additionally invokes Section 468 Cr.P.C., contending that the alleged offence under Section 25 of the Antiquities and Art Treasures Act is punishable only up to six months imprisonment and therefore continuation of FIR beyond the period prescribed is unsustainable.

11.4. It is further argued that even the rival temple claim over the idol was negatived by the learned Chief Judicial Magistrate, Kumbakonam, while ordering return of the idol to the petitioner's father.

Submissions on either side:

12. The learned counsel for the petitioner would submit that the entire prosecution is founded merely upon suspicion and not upon any substantive incriminating material. It is argued that the registration certificate issued by the Archaeological Survey of India

constitutes *prima facie* recognition of lawful custody and possession under the Antiquities and Art Treasures Act, 1972.

13. The learned counsel would further contend that before issuance of registration certificate, notices were allegedly issued to the Idol Wing authorities inviting objections, yet no objection was raised by the police authorities.

14. The learned counsel would submit that once the competent statutory authority has recognised and registered the antiquity, the respondent police cannot subsequently treat the same possession as suspicious.

15. It is also argued that the FIR is vague, bereft of ingredients of any cognizable offence and continuation of investigation would amount to harassment. The learned counsel additionally emphasized that religious sentiments attached to the family deity deserve protection and indiscriminate seizure of family idols would create dangerous consequences for private worship traditions in India.

16. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondents would submit that the petition is wholly premature. It is contended that the investigation has unearthed serious discrepancies between the idol mentioned in the registration certificate and the idol seized from the petitioner's custody.

17. According to the respondents, the difference in measurements is not trivial but materially substantial, thereby creating genuine suspicion that the certificate may pertain to some other idol altogether. The learned Government Advocate would further submit that the petitioner's supporting documents, particularly the alleged surrender deed executed by Narayana Sastrigal, are themselves under cloud and suspected to be fabricated.

18. It is argued that the provenance, antiquity, chain of custody and lawful ownership of the idol require thorough investigation involving historical verification and expert scrutiny. The respondents would further contend that at the stage of investigation,

this Court cannot undertake a mini-trial or adjudicate disputed questions of fact.

19. The learned Government Advocate would finally submit that offences relating to antiquities and idol theft possess immense public importance involving preservation of civilizational heritage and therefore investigation cannot be interdicted at its nascent stage.

Points for consideration:

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

(i) Whether the FIR in Crime No.23 of 2021 lacks foundational ingredients warranting exercise of inherent powers for quashment?

(ii) Whether the registration certificate issued under Section 16 of the Antiquities and Art Treasures Act, 1972, conclusively establishes lawful possession so as to foreclose investigation?

(iii) Whether the disputed questions regarding identity and provenance of the idol can be adjudicated in proceedings under Section 528 BNSS?

(iv) Whether continuation of investigation amounts to abuse of process of law?

Analysis:

21. It is trite that the inherent powers of the High Court are extraordinary in nature and are to be exercised sparingly, carefully and with circumspection. The celebrated judgment of the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***[1] continues to remain the lodestar governing FIR quash jurisdiction. At the FIR stage, the Court is only required to examine whether the allegations, if taken at face value, disclose commission of a cognizable offence. The Court cannot meticulously evaluate evidentiary worth or conduct a roving enquiry into disputed factual matters.

22. In the present case, the FIR was registered upon receipt of information regarding possession of a suspected antique idol. During search, the petitioner admittedly produced the Maragathalingam from a bank locker. The prosecution case does not rest merely on possession of an antique idol simpliciter. Rather, the suspicion

1 1992 Supp(1) SCC 335

deepened upon alleged inability to furnish satisfactory explanation regarding provenance and ownership at the time of seizure.

23. More importantly, the investigation has subsequently revealed material discrepancies between the measurements contained in the ASI registration certificate and the measurements of the idol seized. Whether such discrepancy is explainable, immaterial, clerical, or indicative of fabrication are all matters requiring evidence and investigation. This Court cannot, in proceedings under Section 528 BNSS, conclusively determine whether the idol covered under the registration certificate and the idol seized are one and the same.

24. Much emphasis was laid by the petitioner upon the certificate issued under Section 16 of the Antiquities and Art Treasures Act, 1972. Undoubtedly, registration under the Act constitutes a relevant circumstance in favour of the claimant. However, such certificate cannot automatically extinguish the power of investigation where credible doubts arise regarding identity of the article itself.

25. The respondent police specifically dispute the identity of the idol covered by the certificate. Therefore, the evidentiary value and applicability of the certificate are matters to be examined during investigation and, if necessary, during trial. At this stage, the registration certificate cannot be treated as an impregnable shield against investigation.

26. The petitioner relies upon ancestral possession, religious worship, historical documents, partition deeds, wills, and alleged surrender deeds. The respondents, on the other hand, question the genuineness of such documents and dispute the very historical linkage projected by the petitioner.

27. These are quintessentially disputed factual issues. This Court cannot embark upon forensic examination of signatures, historical authenticity of documents, temple customs, Agamic practices, or provenance of antiquities in a quash petition. Such exercise would amount to converting inherent jurisdiction into a full-fledged trial, which is impermissible.

28. The contention regarding Section 468 Cr.P.C. also cannot be accepted at this stage. Firstly, investigation is still pending and final penal provisions are yet to crystallize. Secondly, offences involving antiquities and idol-related investigations often require specialized verification and inter-departmental coordination. Thirdly, the question of limitation is ordinarily examined at the stage of cognizance and not at the FIR stage, particularly where investigation itself remains incomplete.

29. India's antiquities and idols are not mere objects of commerce. They embody civilizational memory, spiritual continuity and cultural inheritance. Simultaneously, this Court is conscious that countless families across this country preserve ancestral deities and continue private worship traditions spanning generations. The law must therefore maintain a delicate constitutional balance between protection of national heritage and respect for private religious practice.

30. However, where suspicious circumstances arise concerning identity, provenance or lawful custody of antiquities, investigation

cannot be stifled prematurely. Truth must emerge through lawful investigation rather than judicial conjecture. The extraordinary jurisdiction under Section 528 BNSS is intended to prevent miscarriage of justice and not to short-circuit legitimate investigation.

31. In the present case, the materials placed before this Court disclose substantial disputed questions touching identity of the idol, genuineness of supporting documents, and lawful provenance. The registration certificate relied upon by the petitioner undoubtedly constitutes a relevant defence material. Nevertheless, the respondents have projected *prima facie* grounds warranting further investigation, especially in view of the alleged discrepancy in measurements and identity of the idol.

32. This Court is therefore unable to hold that the FIR is frivolous, inherently absurd, or manifestly mala fide so as to warrant quashment at the threshold. The investigation must therefore be permitted to proceed in accordance with law.

33. In fine, this Criminal Original Petition stands **dismissed**. Consequently, the connected miscellaneous petitions, if any, shall stand closed. However, considering the nature of allegations and the petitioner's claim of lawful ancestral possession, the respondent police are directed to conduct the investigation strictly in accordance with law, uninfluenced by any observations made in this order, and complete the same as expeditiously as possible.

34. It is further made clear that the observations contained herein are only for the purpose of deciding the present quash petition and shall not affect the merits of the investigation or any subsequent proceedings.

01.06.2026

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

To

1. The Inspector of Police,
   IDOL Wing,
   Chennai.

2. The Inspector of Police,
   IDOL Wing CID,
   Trichy.

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

L.VICTORIA GOWRI, J.

Sml

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