



Crl.OP(MD)No.21018 of 2025

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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.21018 of 2025

and

Crl.M.P.(MD)Nos.17919 and 17920 of 2025

Kalanthar Ashik Ahamed

... Petitioner/Accused

Vs.

1. The State of Tamilnadu
Rep. by, the Inspector of Police,
Thondi police station,
Thondi, Thiruvadanai Taluk,
Ramanathapuram District.
Cr.No.37 of 2025

2. U.Syed Malunku

.... Respondent / Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in C.C.No.444/2025 on the file of the learned Judicial Magistrate Court, Thiruvadanai and quash the same.

For Petitioner : Mr.R.L.Dhilipan Pandian

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

For R-2 : Mr.S.Arokia Selva Ramesh



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ORDER

The present Criminal Original Petition raises a delicate yet significant question touching upon the intersection between freedom of speech in digital spaces and the statutory protection guaranteed to persons with disabilities under the Rights of Persons with Disabilities Act, 2016. The allegations arise out of an exchange in a WhatsApp group between persons belonging to the same locality, which allegedly escalated into humiliation and intimidation directed against a differently abled individual.

2. The petitioner, who is a practicing advocate and politically active individual, seeks quashment of the criminal proceedings in C.C.No.444 of 2025 pending on the file of the learned Judicial Magistrate, Thiruvadanai. The prosecution alleges commission of offences under Sections 92(a) and 7(4)(d) of the Rights of Persons with Disabilities Act, 2016 and Section 351(2) of the Bharatiya Nyaya Sanhita, 2023 corresponding to Section 506(1) IPC.

3. The case assumes procedural significance as well, inasmuch as the petitioner had earlier approached this Court seeking

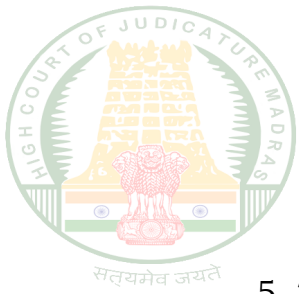


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quashment of the FIR, thereafter approached the Hon'ble Supreme Court by way of Special Leave Petition, later sought a direction for expeditious filing of the final report, and thereafter again sought quashment of the charge sheet. The present petition is therefore required to be examined not merely on the touchstone of the well settled principles governing quash jurisdiction, but also in the context of repeated invocation of the extraordinary jurisdiction of this Court.

Case of the prosecution:

4. The prosecution case, in brief, is that the second respondent/*de facto* complainant is a differently abled person having 60% disability and is residing at Thondi Village in Ramanathapuram District. He is stated to be running a cool drinks business in the locality. According to the prosecution, one Mohamed Jibrine, an advocate and friend of the *de facto* complainant, was selected as the Vice President of the Thondi Ikkia Jamath. Upon such appointment, congratulatory messages were circulated in a WhatsApp group known as "Thondi Makkal Nala Kuzhumam".

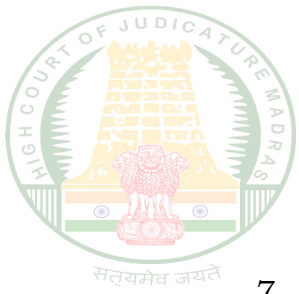


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5. The allegation is that the petitioner herein took exception to the congratulatory message sent by the *de facto* complainant and thereafter transmitted WhatsApp messages and audio recordings to the *de facto* complainant between 09.02.2025 and 11.02.2025. The prosecution would allege that in the said communications, the petitioner humiliated the *de facto* complainant by referring to his disability through derogatory expressions including the word “Disco”, and also threatened him with dire consequences. It is further alleged that the audio message was heard by the shop manager and other persons associated with the complainant.

6. On the basis of the complaint, the first respondent police registered FIR in Crime No.37 of 2025 on 20.02.2025 for offences under Sections 92(a) and 7(4)(d) of the Rights of Persons with Disabilities Act, 2016 and Section 351(2) BNS. During investigation, the Investigating Officer secured the mobile phone allegedly used by the petitioner, obtained call detail records, recorded witness statements, arranged for recording of statement of the *de facto* complainant under Section 183 BNSS corresponding to Section 164 Cr.P.C., and forwarded voice samples for forensic comparison.



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7. According to the prosecution, the Regional Forensic Science Laboratory furnished its report and upon completion of investigation, final report dated 08.10.2025 came to be filed before the learned Judicial Magistrate, Thiruvadanai, who took cognizance in C.C.No. 444 of 2025.

Grounds for quash:

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

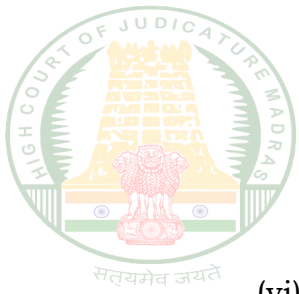
(i) that the allegations even if accepted in entirety do not satisfy the ingredients of Section 92(a) of the Rights of Persons with Disabilities Act, 2016;

(ii) that the alleged communication was a private WhatsApp exchange and therefore the ingredient “within public view” is absent;

(iii) that Section 7(4)(d) of the Rights of Persons with Disabilities Act is not an independent penal provision;

(iv) that the ingredients of criminal intimidation under Section 351(2) BNS corresponding to Section 506 IPC are wholly absent;

(v) that there was no intention to cause alarm to the *de facto* complainant;



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(vi) that the FIR was lodged after delay and therefore the allegation of imminent intimidation is artificial;

(vii) that the prosecution has not produced independent witnesses;

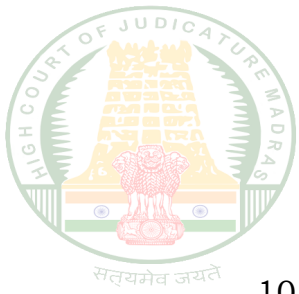
(viii) that the voice recording was not properly authenticated;

(ix) that false implication has arisen due to prior personal and political animosity;

(x) that continuation of the proceedings amounts to abuse of process of Court.

Submissions on either side:

9. The learned counsel appearing for the petitioner would submit that the entire prosecution is politically motivated and has arisen out of prior disputes between the parties. The learned counsel would contend that the *de facto* complainant himself initiated provocative messages in the WhatsApp group and sought to malign the petitioner by circulating allegations relating to earlier criminal proceedings.



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10. It was further argued that the alleged words were not uttered in any public place nor in any place within public view and therefore the offence under Section 92(a) of the Rights of Persons with Disabilities Act, 2016, is not attracted. The learned counsel would submit that WhatsApp communication between individuals cannot automatically constitute “public view” unless it is shown that the communication occurred in an open and public environment accessible to the public at large.

11. The learned counsel would further contend that Section 7(4)(d) of the Rights of Persons with Disabilities Act, 2016, is merely declaratory and regulatory in nature and not independently penal. With regard to Section 351(2) BNS, the learned counsel would argue that the essential ingredient of intention to cause alarm is absent. Mere utterance of angry expressions or abusive words, according to the learned counsel, would not *ipso facto* amount to criminal intimidation.

12. Reliance was placed upon the judgment of the Hon’ble Supreme Court in ***Manik Taneja v. State of Karnataka***¹ to

¹ 2015 7 SCC 423

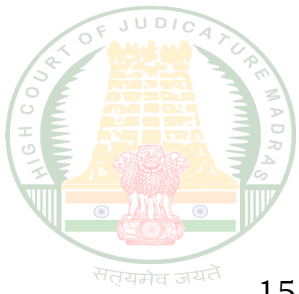


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contend that mere expression of words without intention to cause alarm would not attract Section 506 IPC. The learned counsel also submitted that no proper voice authentication was undertaken and that in the modern digital era fabricated audio clips can easily be generated and circulated.

13. The learned counsel would further contend that repeated filing of petitions by the petitioner cannot deprive him of his substantive right to challenge proceedings when the charge sheet itself does not disclose commission of any offence.

14. Per contra, the learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the allegations in the final report clearly disclose the ingredients of the offences alleged. The learned Government Advocate would point out that the *de facto* complainant is admittedly a differently abled person and that the prosecution materials *prima facie* disclose intentional humiliation based upon his disability.



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15. It was further submitted that the issue as to whether the WhatsApp group communication amounts to humiliation “within public view” is a mixed question of law and fact which can be decided only during trial after appreciation of evidence. The learned Government Advocate would also submit that the petitioner had earlier filed Crl.O.P.(MD) No.4304 of 2025 seeking quashment of the FIR and the same was dismissed by this Court.

16. Thereafter, the petitioner approached the Hon’ble Supreme Court in SLP (Crl.) No.11189 of 2025 and the same also came to be dismissed. Subsequently, the petitioner himself sought a direction for expeditious filing of the final report and after the final report was filed, another quash petition in Crl.O.P.(MD) No.19495 of 2025 came to be dismissed for suppression of material facts.

17. Therefore, according to the prosecution, the present petition is nothing but an abuse of process and a repeated attempt to stall the criminal trial. It was further submitted that the investigation included forensic examination of voice samples and recording of



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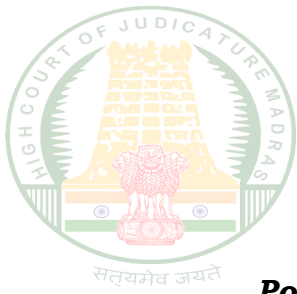
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witness statements and therefore the disputed factual issues cannot be adjudicated in proceedings under Section 528 BNSS.

18. The learned counsel for the second respondent/*de facto* complainant adopted the submissions of the learned Government Advocate and further submitted that the petitioner deliberately targeted the disability of the complainant with an intention to humiliate him socially. According to the learned counsel, humiliation of a differently abled person through social media platforms and WhatsApp groups cannot be trivialised as a mere private quarrel.

19. The learned counsel would submit that the Rights of Persons with Disabilities Act, 2016, is a beneficial social legislation intended to preserve the dignity of differently abled citizens and therefore the provisions must receive purposive interpretation.

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



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Points for consideration:

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

(i) Whether the allegations in the final report prima facie disclose the ingredients of offences under Sections 92(a) and 7(4)(d) of the Rights of Persons with Disabilities Act, 2016?

(ii) Whether the ingredients of criminal intimidation under Section 351(2) BNS are prima facie made out?

(iii) Whether the present proceedings deserve to be quashed in exercise of jurisdiction under Section 528 BNSS?

Analysis:

22. The law governing quashment of criminal proceedings is no longer *res integra*. The celebrated principles laid down in **State of Haryana v. Bhajan Lal**² continue to hold the field. At the stage of quashment, this Court is not expected to conduct a mini trial or meticulously appreciate disputed questions of fact. The jurisdiction under Section 528 BNSS corresponding to Section 482 Cr.P.C. is extraordinary in nature and is to be exercised sparingly and with circumspection. The Court is required to examine whether the

² 1992 Supp(1) SCC 335



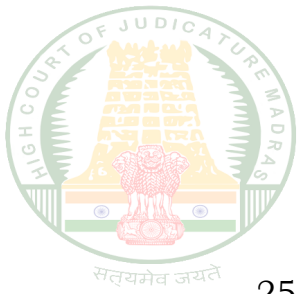
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allegations, taken at face value, disclose commission of a cognizable offence.

23. Section 92(a) of the Rights of Persons with Disabilities Act, 2016, penalises intentional insult or intimidation with intent to humiliate a person with disability in any place within public view. The principal argument of the petitioner is that the alleged communication was through WhatsApp and therefore the requirement of “public view” is absent. This Court is unable to accept such a broad proposition at this stage.

24. The expression “public view” cannot be mechanically confined only to physical spaces. In the digital age, virtual platforms and group communications may also, depending upon factual circumstances, acquire a public character. The prosecution specifically alleges that the offending messages were circulated in a WhatsApp group and were heard by the complainant’s shop manager and other associates.

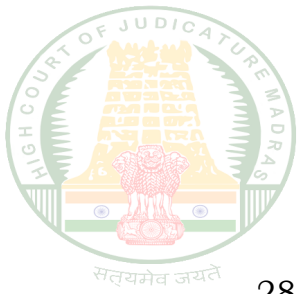


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25. Whether the said communication had sufficient public exposure so as to satisfy the statutory ingredient is a matter requiring evidence. At the threshold stage, this Court cannot conclusively hold that the ingredient of “public view” is absent. Equally, the allegation that the petitioner intentionally referred to the disability of the complainant using derogatory terminology cannot be brushed aside as inherently absurd or improbable.

26. The Rights of Persons with Disabilities Act, 2016, is a welfare legislation intended to secure dignity, equality and social inclusion to persons with disabilities. Courts cannot adopt an unduly restrictive approach while examining allegations of disability-based humiliation.

27. The petitioner is correct in contending that Section 7 primarily deals with protective obligations and is not independently penal in nature. However, the charge sheet substantially invokes Section 92(a) as the penal provision. Mere erroneous or superfluous reference to an additional statutory provision would not by itself vitiate the prosecution at the threshold stage.



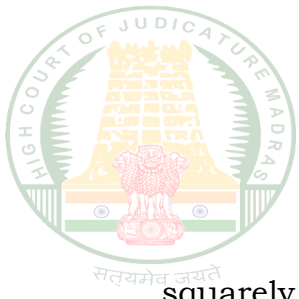
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28. The prosecution further alleges that the petitioner threatened the complainant with serious consequences and sought to instill fear. The petitioner would contend that there was no intention to cause alarm. Whether the communication genuinely caused alarm and whether the accused intended such consequence are matters which ordinarily fall within the realm of trial.

29. The judgment in ***Manik Taneja v. State of Karnataka***³ undoubtedly holds that mere expression of words without intention to cause alarm would not amount to criminal intimidation. However, the present case involves allegations of repeated communications, threatening expressions and humiliation targeting disability. The existence or absence of intention cannot be conclusively determined in a petition under Section 528 BNSS.

30. The petitioner raised serious objections regarding voice authentication and admissibility of electronic evidence. The counter affidavit discloses that voice samples were obtained and forwarded for forensic comparison. Questions relating to genuineness, admissibility and evidentiary value of electronic records are matters

³ 2015 7 SCC 423

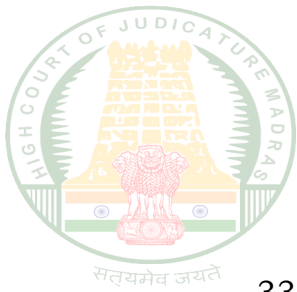


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squarely falling within the jurisdiction of the Trial Court. Such disputed factual controversies cannot be adjudicated in quash proceedings.

31. Another important aspect which cannot be ignored is the sequence of earlier proceedings initiated by the petitioner himself. The petitioner earlier sought quashment of the FIR before this Court and failed. The challenge before the Hon'ble Supreme Court also ended unsuccessfully. Thereafter, the petitioner himself sought expeditious filing of the final report. Again, another quash petition challenging the charge sheet came to be dismissed.

32. Though dismissal of an earlier quash petition may not operate as absolute bar where there exists a genuine change in circumstances, the present petition substantially re-agitates the very same grounds. The petitioner has not demonstrated any extraordinary circumstance warranting repeated interference under Section 528 BNSS.



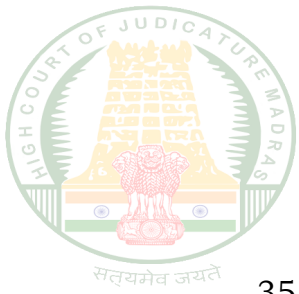
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33. This Court is unable to conclude that the allegations are so absurd or inherently improbable that no prudent person could proceed further. The allegations disclose *prima facie* ingredients requiring adjudication during trial. The disputed factual questions raised by the petitioner cannot be conclusively examined in exercise of inherent jurisdiction. This Court therefore holds that the case does not fall within the parameters laid down in ***State of Haryana v. Bhajan Lal***⁴ for quashing criminal proceedings.

Epilogue:

34. Constitutional courts are undoubtedly guardians of individual liberty and must remain vigilant against malicious prosecution. Equally, courts cannot overlook the statutory dignity guaranteed to differently abled citizens under the Rights of Persons with Disabilities Act, 2016. Digital platforms are not lawless spaces. Humiliation, intimidation or targeted abuse directed against vulnerable individuals through electronic communication cannot automatically be trivialised as casual private exchanges.

4 1992 Supp(1) SCC 335



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35. At the present stage, the materials collected during investigation disclose sufficient *prima facie* grounds for the Trial Court to proceed further. This Court is therefore of the considered view that the petitioner has not made out any ground warranting interference under Section 528 BNSS.

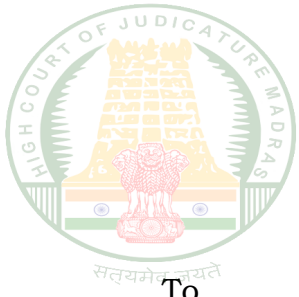
36. In fine, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petitions are closed.

37. However, considering the fact that the petitioner is a practicing advocate, the learned Judicial Magistrate, Thiruvadanai, is directed to consider any application for dispensation of personal appearance on its own merits and in accordance with law.

38. It is made clear that the observations made in this order are confined solely to the adjudication of the present quash petition and shall not influence the trial on merits.

01.06.2026

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- 1.The Judge,
Judicial Magistrate Court,
Thiruvadanai.
- 2.The Inspector of Police,
Thondi police station,
Thondi,
Thiruvadanai Taluk,
Ramanathapuram 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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