



Crl.OP(MD)No.22048 of 2025

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.22048 of 2025

and

Crl.M.P.(MD).Nos.18974 and 18977 of 2025

1. Puliyanikutty Karupanan

2. Prabhu

3. Thennarasu

4. Suresh

5. Tamil @ Muthaiah

6. Chinna Mannan

7. Kayalvizhi

... Petitioners / Accused No.1 to 7

Vs.

1. The State of Tamilnadu,
Rep by. The Inspector of Police,
Natham Police Station,
Natham,
Dindigul District.
(Crime No.161 of 2022)

... 1st Respondent / Complainant

2. Karunchamy

... 2nd Respondent /
Defacto Complainant



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Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in connection with the Impugned Charge Sheet in C.C.185 of 2025 on the file of the learned District Munsif Cum Judicial Magistrate, Natham, Dindigul District and quash the same.

For Petitioner : Mr.S.Sarvagan Prabhu

For R-1 : Mr.S.Ravi
Additional Public Prosecutor

ORDER

Preface:

This Criminal Original Petition raises a fundamental issue touching upon the fairness, integrity, and legality of criminal investigation in case and counter-case situations, particularly the mandatory compliance with Police Standing Order No.566 and the consequences of its violation.

2. The present case presents a textbook instance where rival complaints arising out of the same occurrence were investigated by different Investigating Officers, leading to inconsistent final reports and raising serious questions regarding the legality of the investigative process itself.



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3. The petitioners seek quashment of the impugned charge sheet primarily on the ground that the investigation is vitiated by violation of the mandatory procedure prescribed under PSO 566, as authoritatively interpreted and declared binding by the Full Bench of this Court in **T. Balaji v. State**¹, which constitutes the governing law on the subject.

Case of the prosecution:

4. The prosecution case, as reflected in the FIR in Crime No. 161 of 2022, is that on 11.05.2022 at about 8.00 a.m., when the second respondent/*de facto* complainant was present in his agricultural field, the petitioners allegedly formed an unlawful assembly, criminally trespassed into the land, and assaulted the complainant and his family members using deadly weapons, causing injuries.

5. Based on the said complaint, Crime No.161 of 2022 was registered for offences under Sections 147, 148, 294(b), 323, 354, 506(ii), and 326 IPC, corresponding to Sections 191(2), 191(3),

¹ 2024-2-L.W.(Crl) 175



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296(b), 115(2), 74, 351(2), and 118(2) of the Bharatiya Nyaya Sanhita, 2023.

6. Upon completion of investigation, a final report was filed and taken cognizance by the learned District Munsif-cum-Judicial Magistrate, Natham, as C.C.No.185 of 2025.

Case of the petitioners:

7. The petitioners contend that the impugned prosecution arises out of the very same occurrence forming the subject matter of Crime No.160 of 2022, which was registered based on the complaint given by the petitioners themselves against the second respondent and others.

8. The said counter-case has also culminated in a final report and is pending trial as C.C.No.186 of 2025 before the very same Magistrate. Thus, it is an admitted position that Crime Nos.160 and 161 of 2022 constitute a case and counter-case arising out of the same transaction.



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9. The gravamen of the petitioners' challenge is that the case and counter-case were investigated by different Investigating Officers, in clear violation of PSO 566 and the binding principles laid down by the Full Bench of this Court in **T. Balaji v. State²**.

Grounds for quash:

10. The petitioners have raised the following principal grounds:

(i) Investigation in the case and counter-case by different Investigating Officers is in direct violation of PSO 566.

(ii) Such investigation vitiates the fairness and legality of the investigative process.

(iii) The failure to investigate both cases by the same officer has resulted in mechanical and inconsistent final reports.

(iv) The continuation of prosecution based on such defective investigation amounts to abuse of process of law.

Submissions:

11. The learned counsel for the petitioners vehemently submitted that the mandatory procedure under PSO 566 has been violated at the threshold. It was argued that the Full Bench

² Supra1



judgment of this Court in **T. Balaji v. State**³ mandates that case and counter must be investigated by the same Investigating Officer, and failure to do so vitiates the proceedings when raised at an early stage.

12. The learned counsel drew the attention of this Court to paragraphs 49 and 59 of the Full Bench judgment in **T. Balaji v. State**⁴, contending that where cognizance is taken without compliance of PSO 566, the High Court is empowered under Section 528 BNSS to set aside the proceedings at an early stage. It was further contended that the petitioners have demonstrated prejudice, as property documents, patta, and possession stand in their favour, which were ignored by the Investigating Officer.

13. The learned Additional Public Prosecutor submitted that non-compliance with PSO 566 does not ipso facto vitiate the prosecution, unless miscarriage of justice or prejudice is demonstrated. Reliance was placed on paragraph 49 of the Full

³ 2024-2-L.W.(Crl) 175

⁴ Supra 1



Bench judgment in **T. Balaji v. State**⁵, to contend that defects in investigation are curable and that the matter ought to be decided on evidence during trial. It was further submitted that the present case is at the questioning stage, and the petitioners have not established any concrete prejudice warranting quashment.

Point for consideration:

14. The central question that arises for consideration is whether the impugned charge sheet is liable to be quashed on account of investigation conducted in violation of PSO 566, as declared mandatory by the Full Bench in in **T. Balaji v. State**⁶ case?

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

Analysis:

16. It is not in dispute that Crime Nos.160 and 161 of 2022 arise out of the same occurrence, involving rival versions, thereby constituting a case and counter-case. The Full Bench of this Court,

⁵ Supra 1

⁶ Supra1



while interpreting PSO 566, has categorically held that, (i) Compliance with PSO 566 is mandatory, (ii) The Magistrate has a duty to screen inconsistent rival final reports and (iii) If cognizance is inadvertently taken, the High Court can interfere under Section 528 BNSS, provided the objection is raised at an early stage. However, the Full Bench has equally clarified that non-compliance does not automatically vitiate the prosecution, unless prejudice or miscarriage of justice is demonstrated.

17. In the present case, though the petitioners contend that two different Investigating Officers conducted the investigation, the materials on record indicate that both cases are pending before the same Court, and the trial has not yet commenced. This Court is conscious that quashing at the threshold is an exception, and not the rule. The power under Section 528 BNSS must be exercised sparingly and with circumspection.

18. This Court in the case of ***Mathan Kumar vs. the Inspector of Police, Kalugumalai Police Station***⁷, has already mandated that investigation by different Investigating Officers

⁷ CrI OP(MD)No.16975 of 2023



defeats the purpose of coordinated and objective investigation and is impermissible. The relevant portion is extracted as follows:

“6.In the considered view of this Court, both the final reports are liable to be interfered by this Court for the simple reason that two different Investigation Officers have investigated the cases. This is in contravention of the judgment of Full Bench in T.Balaji and another v. The Sate, reported in 2024-2-L.W. (Crl.)175.”

19. In the present case, it is not disputed that: (i) Crime Nos. 160 and 161 of 2022 arise out of the same occurrence (ii) They constitute a case and counter-case (iii) They were investigated by different Investigating Officers. This constitutes a clear and direct violation of the mandates of the judgment in ***Mathan Kumar vs. the Inspector of Police, Kalugumalai Police Station***⁸'s case. The violation in the present case is not a mere procedural irregularity. It strikes at the very root of the investigative process. Fair investigation is a constitutional guarantee under Article 21. Investigation conducted in violation of mandatory procedural safeguards cannot form the foundation of a valid prosecution.

⁸ Crl OP(MD)No.16975 of 2023



20. Any investigation conducted in violation thereof is fundamentally flawed. Courts cannot lend legitimacy to prosecutions founded upon such defective investigations. Justice must not only be done but must manifestly appear to have been done. In view of the procedural defect shown by the learned counsel for the petitioner that the investigation is conducted by two different Investigating Officers in a case and case in counter and since the trial in both the cases has not yet commenced, the said defect need to be rectified. The Hon'ble Full Bench of this Court in **T. Balaji v. State**⁹'s case has held as follows:

“49.The next question is whether a failure to adhere to PSO 566, ipso facto, vitiate the prosecution? It is well-settled that any defect in the investigation does not automatically vitiate trial unless a miscarriage of justice is shown (vide H.N Rishbud v State, AIR 1955 SC 196). In some cases where a procedural defect is shown at the earliest point of time, it would be possible for the superior court to remedy the situation by setting aside the final reports and issuing directions for proper investigation and filing of the final report. However, where the case is at an advanced stage a plea of non-compliance of PSO 566 cannot be acceded to automatically unless a miscarriage of justice is

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demonstrated. Whether miscarriage of justice has occurred or not will depend on facts which must be assessed from case to case, and we need say no more on this aspect at this stage except such cases would be few and far between.”

21. In the result, this Criminal Original Petition is allowed. The charge sheet in C.C.No.185 of 2025 and C.C.No.186 of 2025 on the file of the learned District Munsif-cum-Judicial Magistrate, Natham, Dindigul District, arising out of Crime Nos.160 of 2022 and 161 of 2022, is hereby quashed and the 1st respondent is directed to conduct a proper investigation and file a final report in both the cases within a period of one month from the date of receipt of a copy this order. Needless to state that the investigation must be conducted by the same Investigating officer. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

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



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To
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1. The District Munsif Cum Judicial
Magistrate, Natham, Dindigul District.
2. The Deputy
Superintendent of Police,
Lalgudi Division,
Trichy District.
3. The Inspector of Police,
Lalgudi Police Station,
Trichy District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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