



Crl.OP(MD)No.21332 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).Nos.21332 of 2025

and

Crl.M.P.(MD)No.18307 of 2025

1. Mohankumar @ Mohanakumar

2. Satheesh @ Satheesh Kumar

... Petitioners

Vs.

1. The State of Tamil Nadu,
Rep . by The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.
Crime No.638/2020

2. Gnana Reji

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the C.C.No.175/2023 on the file of the learned Judicial Magistrate Court No.I, Padmanabhapuram, Kanyakumari District and quash the same as illegal in so far as petitioners are concerned.

For Petitioners : Mr.K.Prabu

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



Crl.OP(MD)No.21332 of 2025

ORDER

Preface:

The present Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashment of the criminal proceedings in C.C.No.175 of 2023, on the ground that the prosecution is legally unsustainable, actuated by mala fides, and amounts to abuse of the process of law.

Case of the prosecution:

2. The case of the prosecution is that the second respondent / *defacto* complainant, namely Gnana Reji, who is working as a Head Constable in SPCID, Thuckalay Police Station, lodged a complaint on 24.05.2020 alleging that the petitioners herein, with previous animosity and ulterior motive, circulated a WhatsApp message containing false and defamatory information with an intention to defame him.

3. Based on the said complaint, the first respondent police registered a case in Crime No.638 of 2020 for the offences



Crl.OP(MD)No.21332 of 2025

punishable under Section 505(1)(a) of the Indian Penal Code, Section 353 of the Bharatiya Nyaya Sanhita, and Section 67 of the Information Technology Act, 2000. After completion of investigation, a final report was filed and the learned Judicial Magistrate Court No.I, Padmanabhapuram, Kanyakumari District, took cognizance of the same in C.C.No.175 of 2023, which is the subject matter of challenge in this petition.

Case of the petitioners:

4. The petitioners submit that the first petitioner is a Police Constable attached to Kanniyakumari Police Station and the second petitioner is a former Scout Master of the Boys and Girls Club, Thuckalay. It is contended that there existed prior enmity between the petitioners and the *defacto* complainant, resulting in a prolonged “cold war”.

5. According to the petitioners, on 17.05.2020, one Saranya from Thuckalay was tested COVID-19 positive and admitted to Kanyakumari Medical College. At the time of her transportation, the defacto complainant, along with another individual, allegedly took



Crl.OP(MD)No.21332 of 2025

photographs of her and circulated the same on social media, thereby causing personal harassment and public humiliation. The said Saranya is stated to have lodged an online complaint, pursuant to which CSR No.349 of 2020 dated 20.05.2020 came to be issued by the first respondent police.

6. It is the further case of the petitioners that, in order to evade legal consequences arising out of the said incident, the *defacto* complainant lodged a false complaint against them alleging circulation of WhatsApp messages, though the petitioners were neither the creators nor the originators of the content and had merely forwarded the information highlighting the misconduct of the *defacto* complainant.

Grounds for quash:

7. The petitioners have raised several grounds, *inter alia*, contending that:

(a) there are no specific allegations or overt acts attributed to the petitioners in the charge sheet;



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(b) the essential ingredients of Section 505(1)(a) IPC / Section 353 BNS are not made out;

(c) mandatory prior sanction from the competent Government has not been obtained;

(d) Section 67 of the Information Technology Act, 2000 is not attracted as the alleged content is not obscene;

(e) the prosecution is manifestly attended with mala fides and amounts to abuse of process of law; and

(f) continuation of the proceedings would result in grave miscarriage of justice.

Submissions:

8. The learned counsel for the petitioners submitted that sanction from the State Government or Central Government is a condition precedent for taking cognizance of an offence under Section 505(1)(a) IPC and, in the absence of such sanction, the prosecution is vitiated at its inception. It was further argued that Section 67 of the Information Technology Act, 2000, deals exclusively with obscene material and that the alleged WhatsApp message does



Crl.OP(MD)No.21332 of 2025

not, by any stretch of imagination, fall within the statutory definition of obscenity.

9. Per contra, the learned Additional Public Prosecutor, appearing for the first respondent, fairly conceded that no sanction had been obtained from the competent Government. However, he contended that the material circulated on social media could be scandalous in nature and therefore sought dismissal of the petition.

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

Point for consideration:

11. The point that arises for consideration is whether the continuation of criminal proceedings in C.C.No.175 of 2023 against the petitioners would amount to abuse of the process of law, warranting interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023.



Crl.OP(MD)No.21332 of 2025

Analysis:

12. It is well settled that prior sanction of the competent Government is mandatory for prosecution under Section 505(1)(a) IPC. In the absence of such sanction, the Court lacks jurisdiction to take cognizance of the offence.

13. In the present case, it is an admitted position that no sanction has been obtained either from the State Government or the Central Government. Therefore, the prosecution under Section 505(1)(a) IPC cannot be sustained in the eye of law.

14. With regard to the offence under Section 67 of the Information Technology Act, 2000, the provision is attracted only when the material is lascivious, appeals to prurient interest, or is obscene. A perusal of the alleged content reveals that it does not satisfy the statutory ingredients required to constitute an offence under the said provision.

15. The allegations, even if taken at face value, disclose a dispute arising out of personal animosity between two individuals in



Crl.OP(MD)No.21332 of 2025

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service, which has been given a criminal colour. The prosecution appears to be vexatious and falls squarely within the parameters laid down by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***¹.

16. Criminal law cannot be permitted to be used as an instrument of harassment or personal vendetta. Allowing the prosecution to continue in the present case would result in abuse of the process of Court and grave miscarriage of justice.

17. In view of the above discussion, this Criminal Original Petition is allowed. The proceedings in C.C.No.175 of 2023 on the file of the learned Judicial Magistrate Court No.I, Padmanabhapuram, Kanyakumari District, are quashed in so far as the petitioners are concerned. Consequently, the connected Criminal Miscellaneous Petition is closed.

05.01.2026

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

¹ 1992 Supp (1) SCC 335



Crl.OP(MD)No.21332 of 2025

To

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1. The Inspector of Police,
Thuckalay Police Station,
Thuckalay,
Kanyakumari District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.OP(MD)No.21332 of 2025

L.VICTORIA GOWRI, J.

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CRL OP(MD)No.21332 of 2025

05.01.2026