



Crl.OP(MD)No.21416 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.21416 of 2025

and

Crl.M.P.(MD)Nos.18426 and 18427 of 2025

1. Sathiya Bhama

2. Anto

... Petitioners/Accused No.

Vs.

1. The State of Tamilnadu,
Rep by. the Inspector of Police,
Arumanai Police Station,
Kanniyakumari District.
Crime No.639/2014.

.... Respondent / Complainant

2. Sivakumar

.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the Charge Sheet in C.C. No. 240 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, and quash the same.



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For Petitioners : Mr. P.Sonu
For R-1 : Mr.B.Thanga Aravindh,
Government Advocate (Crl. side)
For R-2 : Mr.S.C.Herold Singh,
Standing counsel

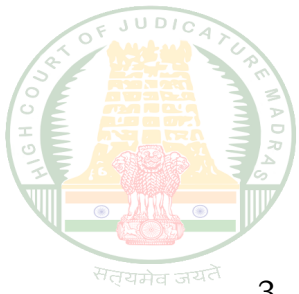
ORDER

Prologue:

The petitioners, who are arrayed as Accused Nos.2 and 3 in C.C.No.240 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, seek quashment of the final report laid for the alleged offences under Sections 147, 148, 448, 294(b), 506(ii) and 427 IPC, corresponding broadly to Sections 191(2), 191(3), 329(4), 296(b), 351(3) and 324(4) of the Bharatiya Nyaya Sanhita, 2023.

Case of the prosecution:

2. The prosecution case, in brief, is that on 18.12.2014, at about 5.00 a.m., the petitioners along with other accused persons allegedly formed an unlawful assembly, trespassed into the property claimed by the second respondent/*de facto* complainant in R.S.No. 201/2 of Kavoorkonam, Arumanai, and damaged 85 rubber trees said to be worth Rs.1,50,000/-.

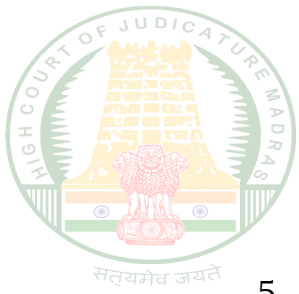


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3. It is further alleged that when the second respondent questioned the accused, they abused him in filthy language, threatened him with dire consequences and left the place. On this foundation, the respondent police laid a final report against the petitioners and other accused for the aforesaid offences.

Grounds for quash:

4. The petitioners contend that they have been falsely implicated in a purely civil dispute relating to title and possession over the property comprised in Old S.No.2302, corresponding to New R.S.Nos.201/2 and 202/2 of Arumanai Village. According to the petitioners, the property originally belonged to two Nair Tarwads, namely Kavukonathu Veedu and Pottikanathu Kunju Veedu. Their predecessor-in-title had acquired rights in the property, and thereafter the petitioners' father, Maruthu Nayagam, filed O.S.No. 447 of 1973 for redemption of mortgage before the learned I Additional District Munsif, Kuzhithurai.



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5. It is stated that a preliminary decree was passed on 31.07.1976 and, in A.S.No.124 of 1978, the learned Sub Judge, Kuzhithurai, partly allowed the appeal on 26.08.1978 and allotted 1/3rd share in the entire extent of Old S.No.2302, corresponding to New R.S.Nos.201/2 and 202/2, in favour of the petitioners' father.

6. It is further submitted that a final decree was drawn on 21.09.1990 in I.A.No.1454 of 1986 in O.S.No.447 of 1973 and delivery was taken in E.P.No.97 of 2002 on 27.10.2011. The petitioners would further submit that the suit filed by one Narayanan Nair, from whom the second respondent claims to have purchased the property, in O.S.No.42 of 2004, was dismissed on 04.12.2012.

7. The petitioners also rely upon the order passed by this Court in Crl.O.P.(MD) No.10095 of 2012, granting police protection to their predecessor. It is their specific case that after suffering adverse orders in civil proceedings, the second respondent has set up a sale deed and settlement deed and has now given a criminal colour to a civil dispute.



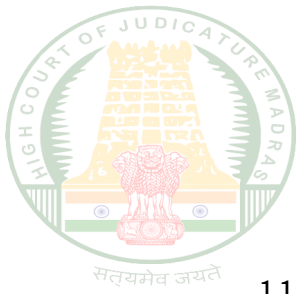
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8. The petitioners further submit that the original investigation was referred as mistake of fact in R.C.No.43 of 2016 and only pursuant to the order of the learned Judicial Magistrate No.I, Kuzhithurai, fresh enquiry was conducted and the present charge sheet was laid.

Arguments on either side:

9. The learned counsel for the petitioners submitted that the entire prosecution is a malicious continuation of the long-standing civil dispute between the parties. It was contended that the question of title and possession had already been adjudicated in favour of the petitioners' predecessor and delivery of possession had also been effected through court process.

10. The learned counsel would further submit that the second respondent, who claims under Narayanan Nair, cannot assert a better title than his vendor, particularly when the suit filed by Narayanan Nair was dismissed and when delivery had already been taken by the petitioners' predecessor.

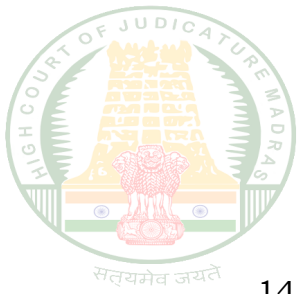


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11. It was next contended that the allegations against the petitioners are vague and omnibus. Even as per the prosecution version, the petitioners were not alleged to have actively cut or damaged the rubber trees. The only allegation is that they were waiting on the road and thereafter picked up the other accused in a car.

12. The learned counsel also submitted that the alleged occurrence is said to have taken place at 5.00 a.m. on 18.12.2014, whereas the complaint was lodged only at 7.30 p.m., after an unexplained delay of about 14½ hours. According to the petitioners, such delay assumes significance in view of the admitted civil dispute.

13. It was further argued that the offence under Section 448 IPC is not attracted, since the property in question is only a rubber plantation and not a building, tent or vessel used as a human dwelling or place of custody. Therefore, the essential ingredient of house trespass is wholly absent.



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14. The learned counsel would finally submit that the prosecution is manifestly attended with mala fides and squarely falls within the categories laid down by the Hon'ble Supreme Court in ***State of Haryana v. Bhajan Lal***¹, warranting interference under Section 528 BNSS.

15. Per contra, the learned Government Advocate (Criminal Side) appearing for the first respondent submitted that the final report has been filed after investigation and that the truth or otherwise of the allegations cannot be gone into in a petition under Section 528 BNSS.

16. It was contended that the statements of witnesses disclose the presence of the accused and the commission of offences. According to the prosecution, the accused persons came in a group, damaged rubber trees and threatened the *de facto* complainant.

17. The learned counsel appearing for the second respondent submitted that the petitioners cannot seek quashment by relying upon disputed documents and civil proceedings. It was contended

¹ 1992 Supp(1) SCC 335



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that pendency of a civil dispute by itself is not a ground to quash a criminal prosecution, if the allegations disclose criminality. The respondents therefore prayed for dismissal of the Criminal Original Petition, leaving all disputed questions to be decided by the trial Court.

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

Point for consideration:

19. The point that arises for consideration is “whether the final report in C.C.No.240 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, insofar as the petitioners/Accused Nos. 2 and 3 are concerned, discloses the essential ingredients of the offences alleged, or whether the prosecution is an abuse of process of law arising out of a predominantly civil dispute?”

Legal position:

20. The power under Section 528 BNSS, corresponding to Section 482 Cr.P.C., is to be exercised sparingly, carefully and with



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circumspection. However, where the allegations in the final report, even if taken at their face value, do not constitute the offences alleged, or where the prosecution is manifestly attended with mala fides, this Court is duty-bound to interdict the criminal process.

21. In ***State of Haryana v. Bhajan Lal***², the Hon'ble Supreme Court has held that criminal proceedings may be quashed where the allegations do not disclose any offence, where the allegations are absurd or inherently improbable, or where the proceeding is manifestly attended with mala fides and instituted with an ulterior motive.

22. It is equally settled that the mere existence of a civil dispute is not by itself a ground to quash a criminal prosecution. However, where the entire substratum of the prosecution is a dispute relating to title and possession, and where criminal allegations are superimposed only to pressurise the opposite party in civil litigation, the continuation of such prosecution would amount to abuse of process.

² 1992 Supp(1) SCC 335



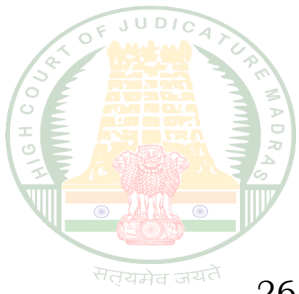
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Analysis:

23. The materials placed before this Court disclose that the dispute between the parties is not a simple case of trespass by strangers. It is rooted in old title, mortgage, redemption, final decree, execution proceedings, delivery of possession, rival sale deed and subsequent civil litigation.

24. The petitioners trace their claim through a decree in O.S.No.447 of 1973, the appellate decree in A.S.No.124 of 1978, the final decree in I.A.No.1454 of 1986, and delivery in E.P.No.97 of 2002. The vendor of the second respondent is stated to have filed O.S.No.42 of 2004 and the same was dismissed on 04.12.2012.

25. Thus, the criminal prosecution cannot be examined in isolation. The property dispute had a long civil history much prior to the alleged occurrence dated 18.12.2014. The second respondent's criminal complaint appears to be a continuation of the contest over possession and enjoyment of the property.



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26. To constitute an offence under Section 147 IPC, there must first be an unlawful assembly within the meaning of Section 141 IPC, and force or violence must be used by such assembly or by any member thereof in prosecution of the common object.

27. Insofar as the petitioners are concerned, the prosecution materials do not disclose any specific overt act. The allegation is not that these petitioners cut the trees, damaged the property or directly participated in the alleged violence. The petitioners are roped in on a vague and general allegation of being part of the group.

28. In a prosecution for rioting, the common object cannot be mechanically inferred merely from relationship, prior civil dispute or alleged presence. There must be material indicating that the accused shared the unlawful common object. Such foundational material is conspicuously weak insofar as these petitioners are concerned.

29. Section 148 IPC requires that the accused must be a member of an unlawful assembly and must be armed with a deadly



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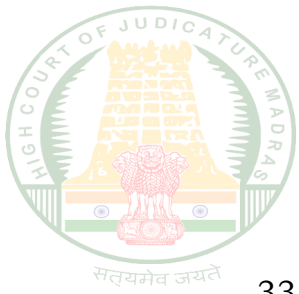
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weapon or with anything which, used as a weapon of offence, is likely to cause death.

30. The final report does not specifically attribute possession of any deadly weapon to these petitioners. No particular weapon is assigned to them. No specific role is attributed to them in the alleged cutting or damaging of rubber trees. In the absence of such specific allegation, the offence under Section 148 IPC cannot be sustained against these petitioners merely on the basis of omnibus implication.

31. Section 448 IPC punishes house trespass. House trespass presupposes criminal trespass into or upon any building, tent or vessel used as a human dwelling, or any building used as a place for worship or as a place for custody of property.

32. The property in question, even according to the prosecution, is a rubber plantation. The allegation is of damage to 85 rubber trees. There is no allegation that the petitioners entered into any house, building, tent or vessel. Therefore, the very statutory foundation for Section 448 IPC is absent.



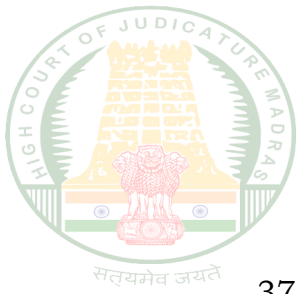
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33. At the highest, the allegation may relate to entry into land. Such an allegation, without the ingredients of house trespass, cannot be stretched to attract Section 448 IPC. Therefore, the charge under Section 448 IPC is unsustainable against the petitioners.

34. Section 294(b) IPC requires that obscene words must be uttered in or near a public place and such utterance must cause annoyance to others. Mere use of abusive or filthy language, without the statutory ingredients of obscenity and annoyance in a public place, will not constitute the offence.

35. The final report does not specify the exact words allegedly uttered by these petitioners. It merely states that filthy language was used. Such bald and general allegation cannot satisfy the requirement of Section 294(b) IPC. Criminal liability cannot rest upon an undefined allegation of abuse.

36. To attract Section 506(ii) IPC, there must be a threat to cause death, grievous hurt or other serious injury, and such threat must be of such nature as to cause alarm to the person threatened.



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37. The prosecution alleges that the accused threatened to do away with the *de facto* complainant. However, there is no specific allegation that these petitioners issued such threat. There is no material showing that any alarm was actually caused or that the alleged threat was capable of immediate execution.

38. The offence of criminal intimidation cannot be made out by a routine recital that the accused threatened the complainant. The allegation must disclose intentional intimidation with the requisite *mens rea*. Such particulars are absent insofar as these petitioners are concerned.

39. Section 427 IPC requires commission of mischief resulting in loss or damage of Rs.50/- or more. Mischief involves intention or knowledge of likelihood of causing wrongful loss or damage to the public or any person.

40. The allegation is that 85 rubber trees worth Rs.1,50,000/- were damaged. However, insofar as the petitioners are concerned, no specific overt act of cutting, uprooting or damaging the rubber trees



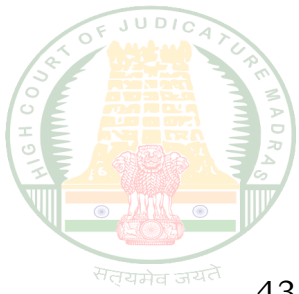
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is attributed to them. The prosecution itself appears to project them as persons who were waiting on the road and allegedly facilitated the other accused.

41. When the very possession and entitlement over the property are the subject matter of civil contest and when court delivery is relied upon by the petitioners' side, the criminal allegation of mischief must be scrutinised with care. In the absence of specific overt acts, the petitioners cannot be compelled to undergo the ordeal of trial for the offence under Section 427 IPC.

42. The alleged occurrence is said to have taken place at about 5.00 a.m. on 18.12.2014, while the complaint was lodged at about 7.30 p.m. The delay is approximately 14½ hours. Delay by itself may not be fatal in every criminal case. But in a case arising out of an admitted civil dispute, unexplained delay assumes significance, particularly when the allegations are omnibus and when the original investigation was stated to have been referred as mistake of fact.

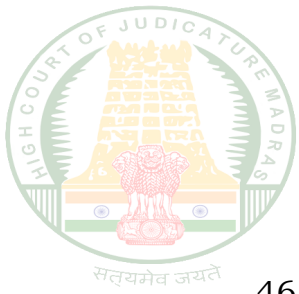


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43. It is not in dispute that the case was originally referred as mistake of fact in R.C.No.43 of 2016 and thereafter further enquiry was undertaken pursuant to the order of the learned Magistrate. Though a final report can be laid after further enquiry in accordance with law, the earlier reference as mistake of fact is a relevant circumstance while examining whether the subsequent prosecution is founded upon clear criminal material or is merely a resurrection of a property dispute under criminal colour.

44. The facts of the present case reveal a long-standing civil dispute, rival claims of title, earlier decrees, execution proceedings, police protection proceedings, and subsequent civil suit. The criminal prosecution has emerged from this matrix.

45. In such circumstances, allowing the prosecution to continue against the petitioners on vague and omnibus allegations would amount to permitting the criminal process to be used as a lever in civil litigation. The law does not permit such conversion of civil hostility into penal prosecution unless the basic ingredients of the alleged offences are clearly disclosed.



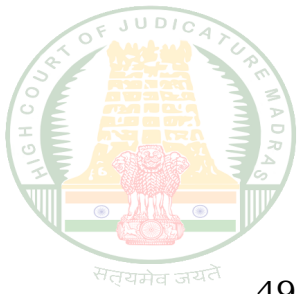
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46. This Court is conscious that disputed questions of fact are ordinarily matters for trial. However, when the final report itself does not disclose the basic ingredients of the offences alleged against the petitioners and when their implication appears to be an extension of a civil dispute, this Court would be failing in its duty if it relegates the parties to a full-fledged trial.

Epilogue:

47. Criminal law is a solemn instrument of public justice. It cannot be employed as a private weapon in a property battle. When the substratum of the dispute is civil, and when the allegations of criminality are vague, omnibus and unsupported by the essential ingredients of the offences alleged, the continuation of prosecution would be nothing but an abuse of the process of Court.

48. The inherent power of this Court exists precisely to prevent such misuse. The doors of the criminal court cannot be kept open merely to exert pressure in a dispute which has already travelled through civil courts and execution proceedings.



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49. In the result, this Criminal Original Petition is **allowed**.
The proceedings in C.C.No.240 of 2017 on the file of the learned Judicial Magistrate No.I, Kuzhithurai, are quashed insofar as the petitioners/Accused Nos.2 and 3 alone are concerned.

50. It is made clear that this order is confined only to the petitioners herein and shall not automatically enure to the benefit of the other accused, unless they are similarly placed and seek appropriate relief in accordance with law. Consequently, connected miscellaneous petitions are closed.

01.06.2026

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

To

- 1.The Judicial Magistrate No.I,
Kuzhithurai.
- 2.The Inspector of Police,
Arumanai Police Station,
Kanniyakumari 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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