



Crl.OP(MD)No.21608 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.21608 of 2025

and

Crl.M.P.(MD).Nos.18612 and 18613 of 2025

Balapriya @ Shanmugapriya

... Petitioners / Accused No.3

Vs.

1. The State of Tamilnadu,
Rep by The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.

... 1st Respondent / Complainant

2. Muthu Murugan

... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned Charge Sheet in S.T.C.No.1286 of 2025 on the file of the learned Judicial Magistrate Court, Valliyoor, Tirunelveli District and quash the same in so far as the petitioner is concerned.

For Petitioner : Mr.K.Rajeshwaran

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



Crl.OP(MD)No.21608 of 2025

WEB COPY

ORDER

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records relating to S.T.C.No.1286 of 2025 pending on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District, arising out of Crime No.183 of 2022, and to quash the same.

Preface:

2. This Criminal Original Petition is filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking quashment of the criminal proceedings initiated against the petitioner for the alleged offence under Section 4-A(1)(a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 as amended by Act 55 of 1992.

3. The petitioner has been arrayed as the 3rd accused in S.T.C.No.1286 of 2025, which has arisen from Crime No.183 of 2022 registered by the first respondent police. The challenge is essentially on the ground that the charge sheet does not disclose any specific



Crl.OP(MD)No.21608 of 2025

role, overt act, or legally sustainable material against the petitioner so as to justify continuation of criminal prosecution.

Case of the prosecution:

4. The case of the prosecution, as reflected from the First Information Report and the final report, is that based on a complaint lodged by the second respondent on 26.07.2022, the first respondent police registered a case alleging that on 24.07.2022, certain persons had assembled at various public places within Valliyoor town, namely, (i) RTO Office Junction, Valliyoor-Rajapudur Road; (ii) Near Concordia School; and (iii) Near Kottaiyadi Bus Stand on Valliyoor-Radhapuram Road, and had allegedly installed flag posts without obtaining prior permission or approval from the competent authority. It is the allegation of the prosecution that such act amounted to unauthorised affixing and exhibition of materials in places open to public view, thereby attracting the offence under Section 4-A(1)(a) of the TNOPD Act.

5. After investigation, the first respondent police filed a final report, which was taken cognizance by the learned Judicial



Crl.OP(MD)No.21608 of 2025

Magistrate, Valliyoor, and numbered as S.T.C.No.1286 of 2025, wherein the petitioner has been arrayed as one of the accused.

Case of the petitioner:

6. The petitioner would submit that she has absolutely no connection whatsoever with the alleged occurrence and that she has been mechanically implicated without any legally acceptable material. It is contended that the charge sheet does not attribute any specific overt act to the petitioner, nor does it disclose as to how and in what manner the petitioner was involved in the alleged installation of flag posts.

7. The petitioner would further submit that except the bald and vague allegation of the *de facto* complainant, there is no independent material, documentary or otherwise, to substantiate the prosecution case insofar as the petitioner is concerned. It is also pointed out that even the statements of the prosecution witnesses do not implicate the petitioner with any specific role, and none of the witnesses have spoken about the petitioner having personally affixed, installed, or authorised the installation of any flag post.



Crl.OP(MD)No.21608 of 2025

WEB COPY

8. According to the petitioner, the continuation of the proceedings would amount to a sheer abuse of process of law, causing undue harassment, and therefore interference under Section 528 BNSS is warranted.

Submissions:

9. The learned counsel for the petitioner submitted that the ingredients of Section 4-A(1)(a) of the TNOPD Act are not made out against the petitioner, as the prosecution has failed to establish any direct act of affixing, exhibiting, or causing such disfigurement by the petitioner. It was argued that criminal liability under the TNOPD Act is individual and act-specific, and in the absence of any clear attribution, the petitioner cannot be compelled to face trial. The learned counsel would further submit that the impugned prosecution is purely speculative and continuation of the proceedings would result in miscarriage of justice.

10. The learned Government Advocate (Criminal Side) appearing for the first respondent would submit that the charge sheet discloses commission of offence and that the veracity of



Crl.OP(MD)No.21608 of 2025

evidence must be tested only during trial. It was contended that the offence under the TNOPD Act is meant to protect public spaces from unauthorised disfigurement, and therefore the petition does not warrant interference at the threshold.

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

Point for consideration:

12. The point that arises for consideration is whether the continuation of criminal proceedings in S.T.C.No.1286 of 2025 against the petitioner, in the absence of any specific overt act or legally sustainable material, would amount to an abuse of process of law warranting exercise of inherent powers under Section 528 BNSS?

Analysis:

13. The scope and ambit of the inherent jurisdiction under Section 528 BNSS (corresponding to Section 482 CrPC) is well settled. This Court can intervene where the uncontroverted allegations and materials do not disclose the commission of any



offence, or where continuation of proceedings would amount to abuse of process of law. A careful perusal of Section 4-A(1)(a) of the TNOPD Act shows that the offence is attracted only when a person affixes, inscribes, or exhibits any poster, bill, notice, or similar material in a place open to public view, without authorisation.

14. In the case on hand, the charge sheet is conspicuously silent as to the specific role played by the petitioner. There is no allegation that the petitioner personally affixed or caused to be affixed any flag post at the alleged locations. Mere association, presence, or vague allegation without clear attribution of act cannot be the foundation for criminal prosecution, especially in offences of this nature which require positive and identifiable conduct.

15. This Court finds that the petitioner has been arrayed as an accused in a casual and omnibus manner, without compliance with the fundamental requirement of establishing *prima facie* involvement. Permitting the proceedings to continue in such circumstances would compel the petitioner to undergo the rigours of criminal trial without



Crl.OP(MD)No.21608 of 2025

any foundational material, which would clearly amount to abuse of process of law.

16. In view of the foregoing analysis, this Court is of the considered opinion that no *prima facie* case is made out against the petitioner for the offence under Section 4-A(1)(a) of the TNOPD Act, and the continuation of the proceedings would result in undue harassment and miscarriage of justice. It is clarified that this order shall not preclude the prosecution from proceeding in accordance with law against any other accused, if permissible, based on legally sustainable material.

17. Accordingly, this Criminal Original Petition is allowed. The proceedings in S.T.C.No.1286 of 2025 on the file of the learned Judicial Magistrate, Valliyoor, Tirunelveli District, arising out of Crime No.183 of 2022, are quashed insofar as the petitioner is concerned. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

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



Crl.OP(MD)No.21608 of 2025

Sml

To

- 1.The Judicial Magistrate Court,
Valliyoor,
Tirunelveli District.
- 2.The Inspector of Police,
Valliyoor Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.OP(MD)No.21608 of 2025

L.VICTORIA GOWRI, J.

Sml

CRL OP(MD)No.21608 of 2025

02.01.2026