



Crl.OP(MD)No.22013 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.22013 of 2025

and

Crl.M.P.(MD)No.18944 of 2025

1. Moorthi

2. Muthupandieswari

3. Murugan

... Petitioners/Accused No.

Vs.

1. The State of Tamilnadu,
Rep by. the Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
Crime No.74/2025.

..... Respondent / Complainant

2. Nanthakumar

.... Respondent /
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating with impugned Charge Sheet in PRC.No.60/2025 on the file of the Court of District Munsif



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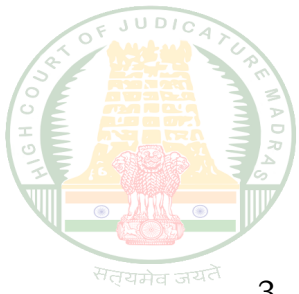
cum Judicial Magistrate, Kamuthi, Ramanathapuram District and
quash the same as against the petitioner.

For Petitioners : Mr.R.Suriyanarayanan
For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)
For R-2 : Mr.Thiru Pugelendhi

ORDER

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 to quash the proceedings in P.R.C.No.60 of 2025 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Kamuthi, Ramanathapuram District.

2. The petitioners stand arrayed as accused 1 to 3 in the final report laid for the alleged offences under Sections 329(4), 49, 351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992. The corresponding provisions under the Indian Penal Code are stated to be Sections 448, 109, 506(2) and 34 IPC.



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3. The central grievance of the petitioners is that the criminal prosecution is not a genuine criminal case, but a prosecution born out of a boundary and property dispute, with the second respondent attempting to convert a civil controversy into a criminal proceeding. The petitioners contend that the final report is malicious, unsupported by reliable materials and is an abuse of the process of law.

Case of the prosecution:

4. The case of the prosecution, as projected in the final report, is that the second respondent / *defacto* complainant, namely Nanthakumar, had lodged a complaint alleging that A-1 and A-2 are husband and wife and that they are running a brick chamber adjacent to the property claimed by the second respondent. It is further alleged that A-3 is the Manager of the said brick unit.

5. According to the prosecution, about fifteen days prior to the occurrence, the uncle of the *defacto* complainant questioned the activities carried on in the brick chamber. Since there was a dispute regarding the land and its boundary, survey proceedings were



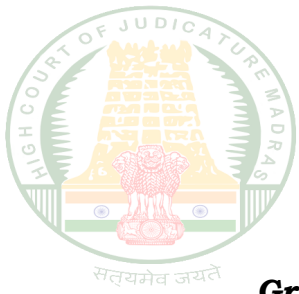
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initiated on the basis of applications given by the parties. It is alleged that during the said survey proceedings, A-2 objected to the survey and threatened the *defacto* complainant with dire consequences.

6. On the basis of the said incident, a complaint was allegedly given by the *defacto* complainant on 06.05.2025, and a petition enquiry was taken up in C.S.R.No.197 of 2025. According to the petitioners, the said complaint was thereafter closed on the basis of an undertaking said to have been given by the third petitioner.

7. The further prosecution case is that on 08.05.2025, at about 8.00 p.m., the petitioners along with their workers unlawfully entered into the property claimed by the *defacto* complainant and damaged the boundary fencing, iron wires and boundary stones, thereby causing a loss assessed at about Rs.2,00,000/-. On the basis of the complaint dated 09.05.2025, the criminal law was set in motion and, after investigation, the final report came to be filed in P.R.C.No.60 of 2025.



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Grounds for quash

8. The petitioners seek quashment of the proceedings mainly on the following grounds:

(i) that the dispute is purely civil in nature and relates to title, possession and boundary;

(ii) that the second respondent is not the owner of the properties in S.Nos.117/5B1A and 117/5A1 and that the said properties belong to one Mahalakshmi;

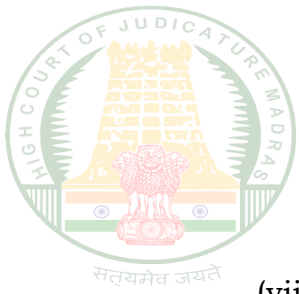
(iii) that a civil suit in O.S.No.93 of 2025 is pending on the file of the Sub Court, Muthukulathur, between one Jeyaselvam and the second respondent and others;

(iv) that the petitioners are only adjacent land owners and have no motive to damage the property of the second respondent;

(v) that the FIR was lodged only on suspicion, without any direct eyewitness;

(vi) that this Court, while granting anticipatory bail in Crl.O.P. (MD)No.9018 of 2025, had taken note of the absence of eyewitnesses;

(vii) that LW2 and LW3 have been subsequently introduced only to strengthen a weak and malicious prosecution;



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(viii) that the offence under Section 351(3) BNS is not made out, since there was no one present at the place of occurrence at the relevant time;

(ix) that the ingredients of Section 3 of the TNPPDL Act are not attracted; and

(x) that the entire prosecution is covered by the principles laid down in ***State of Haryana v. Bhajan Lal***¹.

Arguments on either side:

9. The learned counsel for the petitioners submitted that the final report is a product of unfair and biased investigation. According to him, the very genesis of the complaint is a civil dispute regarding the boundary between neighbouring lands. The petitioners have no connection with the alleged damaged property and, therefore, the prosecution is inherently improbable.

10. It was further submitted that the first complaint relating to the alleged threat during survey proceedings was closed in C.S.R.No. 197 of 2025 and, therefore, the same could not have been

¹ 1992 Supp(1) SCC 335



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resurrected and incorporated in the final report arising out of the subsequent complaint dated 09.05.2025.

11. The learned counsel also submitted that the complaint dated 09.05.2025 was admittedly based on suspicion. When the *defacto* complainant himself had not witnessed the alleged occurrence, the naming of the petitioners in the FIR is highly doubtful.

12. The learned counsel placed reliance on the order passed by this Court in Crl.O.P.(MD)No.9018 of 2025, wherein anticipatory bail was granted by taking note of the fact that there were no eyewitnesses to the alleged incident. It was contended that, after the said observation, the prosecution introduced LW2 and LW3 as eyewitnesses only to overcome the weakness in the prosecution case.

13. It was further contended that the statements recorded under Section 180(3) BNSS / Section 161(3) Cr.P.C. are not substantive evidence and that, in the absence of technical materials such as cellphone tower location, fingerprints or other scientific



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evidence, the final report cannot be sustained. On the above grounds, the learned counsel submitted that continuation of the proceedings would amount to abuse of process of Court and that the same deserves to be quashed.

14. The learned Government Advocate (Criminal Side) appearing for the first respondent opposed the quash petition and submitted that the investigation has culminated in a final report disclosing specific offences against the petitioners.

15. It was submitted that the petitioners are not strangers to the occurrence. They are adjacent land holders and persons connected with the brick chamber situated near the property claimed by the *defacto* complainant. The motive, previous dispute, survey proceedings and subsequent act of trespass and damage form one continuous chain of circumstances.

16. The learned Government Advocate further submitted that the earlier observation made in the anticipatory bail order cannot be



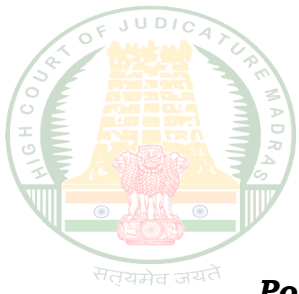
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treated as a final adjudication on merits. An order granting anticipatory bail is passed on a *prima facie* consideration and cannot be used as a foundation to quash a final report after completion of investigation.

17. It was also brought to the notice of this Court that A-2, who is similarly placed and who had filed Crl.O.P.(MD)No.16972 of 2025 seeking quashment of the same proceedings, had already suffered dismissal of her quash petition. Therefore, the learned Government Advocate submitted that the present petitioners cannot seek a different treatment on substantially similar allegations.

18. The learned Government Advocate finally submitted that whether LW2 and LW3 are natural witnesses, whether their statements are reliable, whether the damage was caused by the petitioners and whether the property belonged to the *defacto* complainant are all matters for trial and cannot be adjudicated in a petition under Section 528 BNSS.



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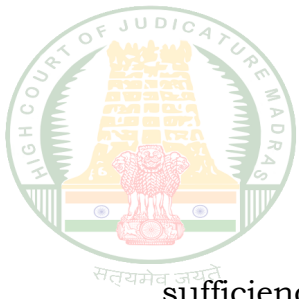
Point for consideration

19. The point that arises for consideration is “whether the final report in P.R.C.No.60 of 2025 on the file of the learned District Munsif-cum-Judicial Magistrate, Kamuthi, Ramanathapuram District, discloses the essential ingredients of the alleged offences under Sections 329(4), 49, 351(3) and 3(5) BNS and Section 3 of the TNPPDL Act, 1992, or whether the proceedings deserve to be quashed as an abuse of process of law?”

Governing principles:

20. The inherent power of this Court under Section 528 BNSS, corresponding to Section 482 Cr.P.C., is undoubtedly wide, but it is not unregulated. The power is to be exercised sparingly, carefully and with circumspection. The Court cannot embark upon an appreciation of evidence as if it were conducting a trial.

21. At the stage of quashing a final report, the Court is required to see whether the allegations, taken at their face value and accepted in their entirety, disclose the commission of the alleged offences. The Court is not expected to assess the truthfulness,



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sufficiency or ultimate probative value of the materials collected during investigation.

22. The principles laid down in ***State of Haryana v. Bhajan Lal***² continue to govern the field. A proceeding may be quashed where the allegations do not disclose any offence, where the allegations are absurd or inherently improbable, where there is a legal bar to the prosecution, or where the proceeding is manifestly mala fide. However, where the allegations disclose a triable case, the inherent power cannot be invoked to stifle prosecution at its threshold.

Analysis:

23. The primary contention of the petitioners is that the dispute is civil in nature and that title to the property is under dispute in O.S.No.93 of 2025 on the file of the learned Sub Court, Muthukulathur.

24. It is true that a civil dispute relating to title, boundary or possession should not be mechanically converted into a criminal

² 1992 Supp(1) SCC 335

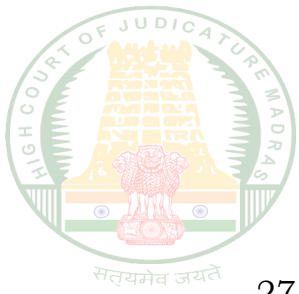


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prosecution. At the same time, the mere existence of a civil dispute does not automatically extinguish criminal liability if the allegations disclose criminal trespass, intimidation, damage to property or unlawful participation.

25. In the present case, the allegation is not confined to assertion of title or boundary. The prosecution alleges that, after a survey-related dispute and threat, the petitioners entered into the property claimed by the *defacto* complainant and caused damage to fencing, iron wires and boundary stones. Such allegations, if ultimately proved, may travel beyond a mere civil dispute.

26. Whether the *defacto* complainant had valid title, whether Mahalakshmi was the true owner, whether the civil suit affects the prosecution case and whether the damaged property was within the possession or enjoyment of the *defacto* complainant are all matters requiring evidence. These disputed questions cannot be conclusively adjudicated in a quash petition.



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27. Section 329 BNS deals with house-trespass and allied forms of aggravated trespass. The prosecution allegation is that the petitioners and their workers entered into the property claimed by the *defacto* complainant during night hours and damaged the boundary structures.

28. The essential question at this stage is not whether the prosecution will ultimately prove possession or ownership beyond doubt, but whether the final report contains allegations of unlawful entry with intent to commit an offence or intimidate, insult or annoy the person in possession.

29. The materials collected during investigation allege prior dispute, survey proceedings, threat and subsequent entry into the disputed property followed by damage. These facts, taken together at their face value, *prima facie* attract the allegation of criminal trespass. Whether Section 329(4) BNS is ultimately made out in its aggravated form is a matter for the trial Court to decide upon evidence.

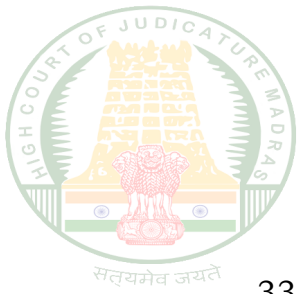


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30. Section 49 BNS deals with punishment for abetment where the act abetted is committed in consequence of the abetment. The prosecution case is that the accused acted in concert and that the workers connected with the brick unit participated in the act at the instance of the accused.

31. In a case involving multiple accused, prior dispute, common participation and alleged damage, the question whether one accused merely stood by, actively instigated, facilitated or shared the intention is essentially evidentiary. At this stage, the allegation of coordinated action is sufficient to permit the prosecution to proceed. Therefore, the charge under Section 49 BNS cannot be quashed at the threshold merely on the ground that the petitioners deny their role.

32. Section 351 BNS corresponds broadly to the earlier offence of criminal intimidation under Section 506 IPC. Sub-section (3) deals with aggravated forms of threat. The petitioners contend that no one was present at the time of the alleged damage and, therefore, no offence of criminal intimidation is made out.

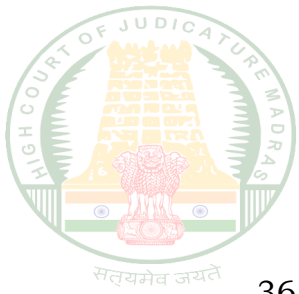


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33. The argument of the petitioners overlooks the prosecution allegation relating to the earlier survey proceedings, where A2 is alleged to have threatened the *defacto* complainant. The prosecution seeks to read the earlier survey-related threat and the subsequent act of damage as connected events forming part of the same transaction.

34. Whether the earlier complaint was closed in C.S.R.No.197 of 2025, whether the undertaking brought an end to the matter, whether the alleged threat can still be relied upon as part of the background facts and whether the threat was grave enough to attract Section 351(3) BNS are matters which require appreciation of materials.

35. At the quash stage, this Court cannot sever the prosecution version and hold that the allegation of intimidation is wholly absent. The correctness and weight of the said allegation must be tested only at trial.



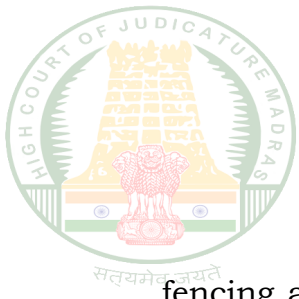
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36. Section 3(5) BNS embodies the principle of joint liability, corresponding to Section 34 IPC. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable as if the act had been done by him alone.

37. The prosecution alleges that the petitioners, being persons connected with the brick chamber and having a prior dispute with the *defacto* complainant, acted together and caused damage to the property. The question whether there was common intention is generally one of inference from conduct, circumstances and participation.

38. At this stage, the allegation of previous dispute, survey objection, alleged threat and subsequent damage is sufficient to permit the prosecution to invoke Section 3(5) BNS. The petitioners are at liberty to disprove common intention during trial.

39. Section 3 of the Tamil Nadu Property (Prevention of Damage and Loss) Act, 1992, penalises damage or loss caused to property. The prosecution allegation is that boundary stones, iron



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fencing and other materials were damaged, causing loss to the tune of Rs.2,00,000/-.

40. The contention that the property does not belong to the *defacto* complainant cannot by itself be a ground to quash the TNPPDL charge. The Act is concerned with damage or loss to property. Whether the property was private property, whether it was in the possession of the *defacto* complainant, whether the alleged loss was exaggerated and whether the valuation of Rs.2,00,000/- is proved are all matters for evidence. The final report contains a specific allegation of damage. Therefore, the invocation of Section 3 of the TNPPDL Act cannot be said to be wholly baseless at this stage.

41. Much emphasis was placed by the learned counsel for the petitioners on the observation made in the anticipatory bail order in Crl.O.P.(MD)No.9018 of 2025 that there were no eyewitnesses to the alleged incident.

42. An order granting anticipatory bail is passed on a *prima facie* assessment of the materials then placed before the Court. Such

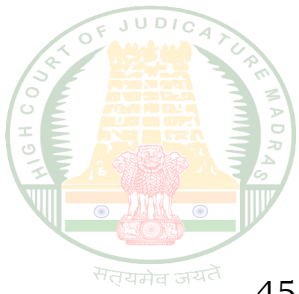


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an order neither concludes the investigation nor freezes the prosecution case. The observation made in a bail order cannot be treated as a finding of fact for the purpose of quashing a final report.

43. The contention that LW-2 and LW-3 were subsequently introduced is a matter concerning credibility of witnesses. The petitioners are entitled to confront them in cross-examination. The delay, if any, in disclosing their statements, the alleged silence of the prosecution at the bail stage and the alleged artificial strengthening of the prosecution case are all matters which may be urged before the trial Court. This Court, in exercise of inherent jurisdiction, cannot conduct a roving enquiry into whether LW2 and LW3 are truthful witnesses. The evidentiary value of their statements must be tested in trial.

44. The petitioners further contend that there is no cellphone tower material, fingerprint evidence or scientific evidence connecting them with the occurrence.



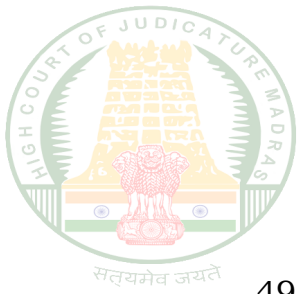
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45. In every criminal case, scientific evidence is not an indispensable condition precedent for prosecution. The absence of such evidence may affect the weight of the prosecution case, but it does not automatically render the final report liable to be quashed.

46. If oral evidence, circumstantial evidence and other materials collected during investigation disclose a *prima facie* case, the prosecution cannot be terminated merely because technical evidence has not been collected.

47. This Court also cannot ignore the submission of the learned Government Advocate that A-2, who is stated to be the wife of A-1 and who is a connected accused in the same crime, had already filed Crl.O.P.(MD)No.16972 of 2025 seeking quashment and that the said petition came to be dismissed.

48. Though dismissal of a connected accused's quash petition does not operate as *res judicata* in the strict civil sense, it is nevertheless a relevant circumstance when the allegations arise out of the same final report, same occurrence and same chain of facts.



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49. Unless the present petitioners demonstrate a distinct legal ground or an unimpeachable material which completely exonerates them, this Court would be slow to take a view inconsistent with the earlier dismissal in respect of a similarly placed accused.

50. In the present case, the contentions raised by the petitioners are substantially factual in nature and require trial. No unimpeachable document has been produced to show that the continuation of prosecution is legally barred or wholly absurd.

51. The petitioners have invoked the ***State of Haryana v. Bhajan Lal***³ categories and contend that the prosecution is malicious and an abuse of process. However, mala fides, even if alleged, cannot by itself be a ground for quashing when the final report discloses the ingredients of cognizable offences.

52. The allegations in the final report, if taken at face value, disclose prior enmity, alleged threat, alleged trespass, damage to property and common participation. These are not allegations so

³ 1992 Supp(1) SCC 335



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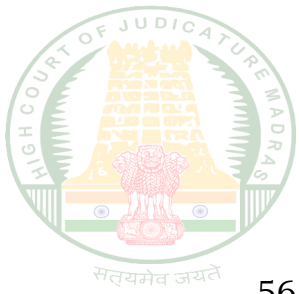
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further.

absurd or inherently improbable that no prudent person can proceed further.

53. The present case does not fall within any of the exceptional categories warranting exercise of inherent jurisdiction. The defence raised by the petitioners may be a possible defence, but not a ground for quashing the prosecution at the threshold.

54. On a careful consideration of the materials placed before this Court, this Court is of the view that the allegations in the final report disclose a *prima facie* case for the alleged offences. The issues raised by the petitioners relate to title, possession, credibility of witnesses, existence of common intention, valuation of damage and the truthfulness of the prosecution version. These are all matters for trial.

55. This Court is not persuaded to hold that the prosecution is manifestly malicious, legally barred or inherently improbable. The petitioners have not made out a case for quashing the proceedings in P.R.C.No.60 of 2025.

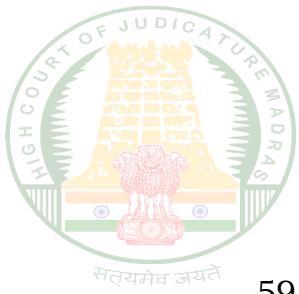


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56. The inherent jurisdiction of this Court is a constitutional safety valve against injustice, but it is not a substitute for trial. Where the prosecution materials disclose a triable case, the accused must face the ordinary process of law. The trial Court alone, after recording evidence, can determine whether the prosecution version is truthful or whether the defence of civil dispute and false implication deserves acceptance.

57. Property disputes between neighbouring land owners often carry both civil and criminal overtones. The Court must be vigilant to prevent abuse of criminal law; equally, it must not prematurely extinguish a prosecution where the allegations disclose trespass, threat and damage to property. The present case belongs to the latter category, warranting trial and not quashment.

58. Accordingly, this Criminal Original Petition is dismissed. Consequently, the connected miscellaneous petitions seeking stay of all further proceedings are closed.

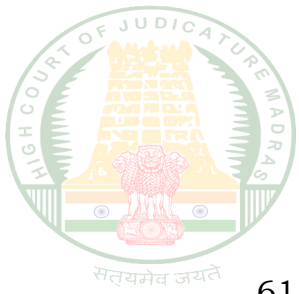


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59. Considering the submission that the petitioners 1 and 2 are residing at Madurai and that the third petitioner is engaged in business, the personal appearance of the petitioners before the trial Court is dispensed with, except on the following dates:

- (i) for furnishing copies;
- (ii) for committal proceedings, if required by law;
- (iii) for framing of charges;
- (iv) for questioning under the relevant provision of BNSS;
- (v) on the date of judgment; and
- (vi) on any other date when their presence is specifically directed by the trial Court.

60. The petitioners shall be represented by counsel on all other hearing dates and shall not dispute their identity. If the petitioners adopt any dilatory tactics or fail to cooperate with the proceedings, it is open to the learned District Munsif-cum-Judicial Magistrate, Kamuthi, Ramanathapuram District, to insist upon their personal appearance.



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61. The learned trial Court shall proceed with the matter uninfluenced by any observation made in this order, as the observations herein are confined only to the disposal of this quash petition.

01.06.2026

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

To

- 1.The District Munsif cum
Judicial Magistrate,
Kamuthi, Ramanathapuram District.
- 2.The Inspector of Police,
Abiramam Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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