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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2026

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

CrI.OP.(MD)No.23363 of 2025

and

CrI.M.P(MD)No.20235 of 2025

Mariappan

...Petitioner/Sole Accused

Vs

1. State of Tamilnadu,
Rep. by the Inspector of Police,
Seidunganallur,
Seidunganallur Police Station,
Thoothukkudi District.
Crime No. 179 of 2024.

...1st Respondent/Complainant

2. Karuppasamy

...2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 528 of BNSS Act, to call for the records relating to the Impugned final report, which is pending as Unnumbered C.C.No... of 2025 on the file of the learned Judicial Magistrate, No. II, Srivaikundam in F.R.No.177 of 2024 dated 28.08.2024 and quash the same.



For Petitioner : M/s.M.Prasanna Vinoth
for M/s.M.Suresh

For Respondents : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor
for R1
Mr.S.Selvakumar for R2

ORDER

The present petition has been filed by the sole accused in Crime No.177 of 2024, on the file of the first respondent police seeking to quash the FIR wherein he is alleged to have committed offences under Section 126(2), 296(b), 131 & 351(2) of BNS, 2023.

2. A perusal of the FIR reveals that the defacto complainant while he was on his way in an Auto, he was intercepted by the accused person and attacked with a wooden log. The defacto complainant was also abused by the accused person. He had threatened that he would set fire to the Auto.

3. According to the learned Counsel appearing for the petitioner, the petitioner and the second respondent are relatives and out of other disputes, the present complaint has been lodged. In fact the petitioner was not at all involved in the case.



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4. The learned Counsel appearing for the petitioner submits that 161 statement of the defacto complainant would clearly reveal that the accused person as well as the defacto complainant were talking with each other and due to sudden provocation, the defacto complainant is alleged to have abused the petitioner as well as made an attempt to attack with wooden log and therefore, according to him, Section 351 of IPC would not get attracted. He relied upon a decision of this Court in CrI.O.P.Nos.18382 and 20382 of 2020.

5. The learned Counsel for the petitioner further submitted that mere threat is not enough and unless the threat was made with an intention to cause harm to the person threatened or it must be to do any act which is not legally bound to do or omit to do an act which he is legally entitled to.

6. In the present case, even as per the 161 statement of the defacto complainant, threat was not with the intent to do any alarm, therefore, according to him, Section 126(2) of BNS would got attracted.

7. The learned Counsel appearing for the petitioner further submitted that the ingredients of other Sections have not been made out.



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8. The learned Counsel appearing for the second respondent submits that another FIR has been lodged at the instance of the present petitioner and the quash petition filed has been by the defacto complainant to the present case in CrI.O.P(MD)No.4430 of 2026.

9. I have considered the submissions made on either side and perused the materials available on record.

10. A perusal of the records clearly reveal that the alleged obscene words are said to have been uttered due to grave and sudden provocation and the threat that has been issued by the petitioner is not with the real intention to cause any harm to the defacto complaint. In such circumstances, the ingredients of the offences under Sections 126(2), 296(b), 131 and 351(2) of BNS, 2023, have not been made out.

11. In such circumstances, directing the accused person to undergo the trial would caused him great hardship and therefore, this Court is inclined to quash the F.I.R. in crime No.179 of 2024, on the file of the first respondent police.



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12. With the above said observations, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

12.03.2026

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

Note: Issue order copy on 16.03.2026

To

1. The learned Judicial Magistrate, No. II,
Srivaikundam.

2. The Inspector of Police,
Seidunganallur,
Seidunganallur Police Station,
Thoothukkudi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

RJR

CrI.OP.(MD)No.23363 of 2025

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