



Crl.OP(MD)No.23368 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.23368 of 2025

and

Crl.M.P.(MD).Nos.20237 and 20240 of 2025

Balaji

... Petitioner/Accused No.5

Vs.

1. State of Tamil Nadu Represented by,
The Inspector of Police,
Nerkuppai Police Station,
Sivagangai.
(FIR No. 63/2025)

.... Respondent / Complainant

2. Gnanavel

.... Respondent /
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records and quash the final report in STC No.730/2025 on the file of the learned Judicial Magistrate Court, Singampunari and quash the same.

For Petitioner : Mr.S.Ramanathan

For R-1 : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)



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ORDER

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records pertaining to the Final Report in S.T.C.No.730 of 2025 on the file of the learned Judicial Magistrate Court, Singampunari, Sivagangai District, and to quash the same as illegal.

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 in S.T.C.No.730 of 2025, wherein the petitioner is arrayed as A3 for the alleged offences under Sections 126(2), 296(b), 118(1) and 351(2) of the Bharatiya Nyaya Sanhita, 2023, corresponding to Sections 339, 294(b), 324 and 506(1) of the Indian Penal Code.

3. The challenge is primarily founded on the manner of investigation, which, according to the petitioner, suffers from fundamental legal infirmities, particularly non-compliance with



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Police Standing Order 566, violation of the binding Full Bench decision of this Court in T. Balaji v. State, and breach of the statutory mandate under the BNSS.

Case of the prosecution:

4. The prosecution case, as emerging from the FIR and the final report, is that on 01.09.2025 at about 9.00 p.m., the *de-facto* complainant, after completing his work, was returning home on his two-wheeler along Kovilkalai Road. It is alleged that the accused persons, including the petitioner, intercepted the *de-facto* complainant and attacked him with stones and wooden logs, allegedly with an intention to kill him.

5. It is further alleged that upon the *de-facto* complainant raising alarm, one Kulanthaivelu intervened and rescued him, following which the complaint was lodged. Based on the said complaint, the respondent police registered the FIR and, after investigation, laid the impugned final report against the petitioner as A3 for the aforesaid offences.



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Case of the petitioner / grounds for quash:

6. The petitioner contends that he has been falsely implicated and that he was neither present at the scene of occurrence nor connected with the alleged incident in any manner. It is the specific case of the petitioner that the occurrence resulted in a case and counter case, and that two FIRs, namely FIR No.63 of 2025 and FIR No.64 of 2025, were registered arising out of the same transaction. According to the petitioner, despite the existence of a case and counter case, the Investigating Officer has filed the impugned final report in clear violation of Police Standing Order 566, which governs the procedure to be followed in such cases.

7. It is further contended that the impugned final report was filed hurriedly, during the pendency of a quash petition before this Court in Crl.O.P.(MD) No.18119 of 2025, without determining the real aggressor, as mandated under PSO 566. The petitioner also points out that the impugned final report is completely silent about the counter complaint and the injuries sustained by the accused on the opposite side, despite the admitted fact that A1 was hospitalised as an inpatient for eight days.



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8. It is further alleged that the respondent police declined to furnish Call Detail Records sought by the petitioner under the Right to Information Act, which would have supported his plea of absence. The petitioner has placed reliance on independent documentary material, including a letter issued by a police coaching institute at Trichy, attendance registers and hostel records, to demonstrate that he was physically present at Trichy at the relevant time. The petitioner also highlights the delay of 18 days in forwarding the FIR to the jurisdictional Magistrate, which is stated to be in violation of Section 176(1) of the BNSS.

Submissions:

9. The learned counsel for the petitioner submitted that the investigation stands vitiated due to non-adherence to PSO 566, suppression of the counter case, and non-compliance with the Full Bench guidelines of this Court.

10. The learned Government Advocate (Criminal Side) contended that the allegations disclose cognizable offences and that the plea of alibi cannot be examined at the stage of quash.



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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.730 of 2025, in the face of admitted case and counter case, violation of Police Standing Order 566, non-compliance with the Full Bench decision in T. Balaji v. State, and unexplained delay under Section 176(1) BNSS, would amount to an abuse of process of law warranting interference under Section 528 BNSS?

Analysis:

13. It is a settled principle of law that case and counter case investigations require scrupulous adherence to procedural safeguards, so as to ensure fairness, neutrality and transparency in investigation. Police Standing Order 566 mandates that in case and counter case situations, the Investigating Officer must either (i) prosecute the party found to be the aggressor, or (ii) refer both cases, if found to be untrue, after proper investigation.



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14. The Full Bench of this Court in **T. Balaji v. State**¹ has categorically held that when one case is charge-sheeted and the counter case is not, the final report must specifically disclose the gist of the counter case, the materials collected therein, and the result of such investigation concluding that the accused are aggressors.

15. In the present case, a careful perusal of the impugned final report reveals that there is no reference whatsoever to the counter case, the injuries sustained by the accused on the opposite side, or the reasons for not filing a final report in the counter FIR. Such omission strikes at the very foundation of the prosecution, rendering the investigation legally unsustainable.

16. Further, the delay of 18 days in forwarding the FIR to the jurisdictional Magistrate, without any explanation, is in clear violation of Section 176(1) of the BNSS, which mandates prompt intimation to the Magistrate to safeguard against embellishment and afterthought.

¹ 2024-2-L.W.(Crl) 175



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17. Though the plea of alibi is ordinarily a matter for trial, this Court cannot ignore the fact that the petitioner has produced independent, contemporaneous and unimpeachable documents which *prima facie* establish his absence from the place of occurrence.

18. The cumulative effect of (i) violation of PSO 566, (ii) non-compliance with the Full Bench mandate, (iii) suppression of counter case materials, and (iv) statutory violation under the BNSS, persuades this Court to hold that the continuation of proceedings against the petitioner would amount to a clear abuse of the process of law.

19. This Court deems it necessary to reiterate that Police Standing Orders and binding judicial precedents are mandatory in nature, and any deviation therefrom would inevitably invite judicial scrutiny at the threshold to prevent miscarriage of justice. This Court is satisfied that the impugned final report in S.T.C.No.730 of 2025 suffers from serious legal infirmities which go to the root of the matter and cannot be cured by relegating the petitioner to trial.



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20. In the result, (i)The Criminal Original Petition is allowed.
(ii)The Final Report in S.T.C.No.730 of 2025 on the file of the Learned Judicial Magistrate Court, Singampunari, Sivagangai District, is quashed insofar as the petitioner / A3 is concerned. Consequently, all connected miscellaneous petitions are closed.

02.01.2026

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

To

- 1.The Judicial Magistrate Court,
Singampunari.
- 2.The Inspector of Police,
Nerkuppai Police Station,
Sivagangai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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