



CrI.O.P.No.8854 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

**CrI.O.P.No.8854 of 2025**

**and**

**CrI.M.P.Nos.5865 & 15318 of 2025**

- 1.Mohan Karthik
- 2.Rajendiran
- 3.Senthil Babu
- 4.Manokaran
- 5.Dharmalingam
- 6.Subramaniam
- 7.Gopalsamy
- 8.Selvaraj
- 9.Palanisamy
- 10.Elamurugan
- 11.Sivanathan

... Petitioners

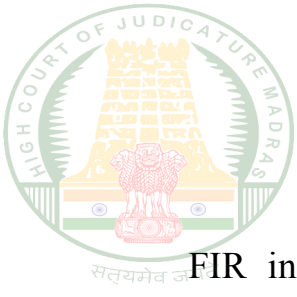
Vs.

- 1.State of Tamil Nadu,  
Represented by Inspector of Police,  
District Crime Branch Police Station,  
Tiruppur.

- 2.Velusamy

... Respondents

**Prayer** : Criminal Original Petition filed under Section 528 of Bharatiya  
Nagarik Suraksha Sanhita to call for the records relating to the impugned



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FIR in Crime No.21 of 2024 dated 16.10.2024 on the file of the 1<sup>st</sup>

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respondent and quash the same.

For Petitioner : Mr.Vikram Veerasamy  
For R1 : Mr.K.M.D.Muhilan,  
Additional Public Prosecutor  
For R2 : Mr.P.M.Duraisamy

### **ORDER**

This Criminal Original Petition has been filed to quash the FIR in Crime No.21 of 2024, dated 16.10.2024, on the file of the 1<sup>st</sup> respondent Police, registered for the offences under Sections 295, 379, 457 IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992.

2.The allegations in the FIR are to the effect that the accused and other persons, who are unconnected with the administration of the Temple, unlawfully entered the Temple premises and cut down the old trees found in the Temple premises and subsequently sold them as firewood. The goods were transported in a vehicle bearing Registration No.TN-28-AJ-5572. It is



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also alleged in the FIR that the trees are sacred in nature which were removed unlawfully. Therefore, an FIR came to be registered in Crime No.21 of 2024 as against the petitioners and other persons for the offences under Sections 295, 379, 457 IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. Challenging the same, present Criminal Original Petition has been filed.

3.The FIR is sought to be quashed mainly on the ground that some of the petitioners were appointed by the Trustees of the Temple and there is no question of theft or criminal wrong committed by them. Further, it is the contention of the petitioners that the *de facto* complainant originally lodged a complaint which was declined, which led to filing of Crl.M.P.No.4233 of 2024 before the learned Judicial Magistrate, Palladam, for registration of FIR. Thereafter, on 16.10.2024, the present FIR came to be registered.

4.Learned counsel for the petitioner would submit that, earlier, an application has been filed by the *de facto* complainant under Section 156(3) Cr.P.C., in Crl.M.P.No.2879 of 2022, to register the complaint and the said petition was dismissed by the learned Judicial Magistrate. As against the



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said order, a revision in Crl.R.C.No.1223 of 2022 was filed before this Court. This Court, by order dated 29.08.2022, set aside the order of the learned Judicial Magistrate and issued a direction to forward the complaint of the *de facto* complainant dated 09.06.2022 to the 1<sup>st</sup> respondent Police and also directed the 1<sup>st</sup> respondent Police to conduct a preliminary enquiry and follow the procedure as laid down in *Lalithakumari's case* and depending upon the outcome of the preliminary enquiry, the 1<sup>st</sup> respondent was directed to register a case and investigate into the same and file a final report in accordance with law or to give such intimation as mandated under law to the complainant. In the meanwhile, the complaint given by the 2<sup>nd</sup> respondent/*de facto* complainant, dated 09.06.2022, was closed by the Police by closure report dated 15.12.2022. The said closure report was also challenged before this Court in W.P.No.5809 of 2023. The complainant also filed a petition before this Court in Crl.M.P.No.17973 of 2022 to recall the order passed in Crl.R.C.No.1223 of 2022 and to direct registration of case and investigation of the case by some other independent agency. Both the writ petition in W.P.No.5809 of 2023 and the petition to recall filed in Crl.M.P.No.17973 of 2022 in Crl.R.C.No.1223 of 2022 were disposed of by this Court by a common order dated 20.07.2023. This Court, in its common



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order, held that, as this Court earlier directed to conduct preliminary enquiry as per the dictum of the Hon'ble Supreme Court in *Lalithakumari's case*, there are no merits in the recall petition, and thereby, dismissed the recall petition. As far as challenge to the closure report is concerned, this Court, considering the judgment of the Division Bench of this Court in *G.Prabhakaran v. Superintendent of Police and another* reported in (2018) 4 MLJ (Crl.) 513, held that the only course open to the complainant is to file an appropriate petition/complaint before the jurisdictional Magistrate after due compliance of law and this Court cannot go into the merits of the closure report and set aside the same in exercise of the powers under Article 226 of the Constitution of India. While dismissing the writ petition, liberty was granted to the *de facto* complainant to file a private complaint before the Magistrate and this Court also directed the Assistant Commissioner, HR & CE Department/3<sup>rd</sup> respondent therein to conduct enquiry and take appropriate action against the private respondents and forward the complaint to the Law Enforcement Agencies. Hence, it is the contention of the learned counsel for the petitioner that the earlier complaint filed by the *de facto* complainant has already been closed and challenge to the closure report also did not fructify any results. Further, while dismissing the writ



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petition, this Court has granted liberty to the *de facto* complainant only to file a private complaint. Therefore, once again, an application filed under Section 156(3) Cr.P.C., in Crl.M.P.No.4233 of 2024 ought not to have been entertained by the learned Magistrate, on the basis of which, the present FIR came to be registered. Hence, it is the further contention of the learned counsel for the petitioner that FIR ought not to have been filed based on the second complaint forwarded by the learned Magistrate, since earlier application under Section 156(3) Cr.P.C. had already been dismissed and the said order of dismissal has also reached finality.

5. Whereas, the learned counsel appearing for the 2<sup>nd</sup> respondent/*de facto* complainant would submit that, while disposing of the recall petition as well as writ petition, this Court has clearly held that the *de facto* complainant is entitled to file a private complaint. Only on that basis, the complaint was presented. However, the trial Court, instead of treating it as a complaint under Section 200 Cr.P.C., has once again directed investigation. Only on that basis, the present FIR has been filed since cognizable offence is made out. Hence, he opposed the quashment of the FIR.



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6.I have perused the entire materials available on record.

7.The sum and substance of the allegations in the FIR is with regard to the removal of valuable trees from the Temple premises. The allegations have been made against the persons who are unconnected to the Temple administration and not involved in the helm of affairs of the Temple. However, the removal of trees is not in dispute. Though it is not stated that they are valuable trees, the fact remains that trees have been removed from the Temple, which fact has been recorded in the earlier orders referred above. Now, the only contention of the learned counsel for the petitioner is that the previous complaint given by the petitioner was closed by the authorities, and when the closure report was challenged before this Court in a writ petition, this Court had dismissed the writ petition, however, liberty was granted only to file a private complaint. However, it is his contention that, now, once again, an application has been filed under Section 156(3) Cr.P.C., based on which, the present FIR has been filed.



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8. On a careful perusal of the application filed by the complainant/2<sup>nd</sup> respondent in CrI.M.P.No.4233 of 2024, it is clear that it is one seeking seeking direction. Though this Court had earlier given liberty only to file a private complaint, a detailed complaint has been filed by the *de facto* complainant seeking a direction once again under Section 156(3) Cr.P.C. This complaint has been filed on 06.05.2024. The learned Magistrate has once again forwarded the said complaint for registration of FIR on 23.08.2024. Based on that, now the present FIR has been registered.

9. This Court is of the view that, merely because the complaint was not taken cognizance under Section 200 Cr.P.C., it cannot be said that no private complaint is filed. In fact, the contents of the entire complaint filed by the *de facto* complainant discloses cognizance offences. Therefore, the learned Magistrate ought to have taken cognizance of the complaint under Section 200 Cr.P.C. However, it is the discretion of the learned Magistrate either to take cognizance by following the procedure under Section 200 Cr.P.C. or to forward the same to the concerned jurisdictional Police. The



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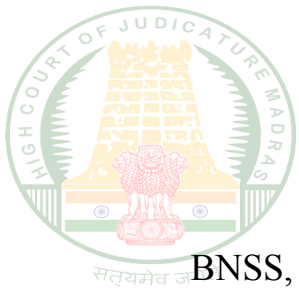
learned Magistrate has adopted the latter course by forwarding the complaint to the jurisdictional Police, which was considered and the present FIR came to be filed. Therefore, merely because the complaint dated 06.05.2024 has not been filed by quoting the relevant provision, i.e., Section 200 Cr.P.C., and the procedure under Section 200 Cr.P.C. has not been followed by the learned Magistrate, this Court is of the view that the same cannot be a ground to hold that the FIR registered on the basis of such complaint has to be quashed at the threshold. Such a technical ground cannot be a ground to erase the offences allegedly perpetuated. In the present case, though the learned Magistrate dismissed the application filed under Section 156(3) Cr.P.C to register the earlier complaint dated 09.06.2022, this Court, by an order dated 29.08.2022 in CrI.R.C.No.1223 of 2022, set aside the order of the learned Magistrate, and once again, the complaint was directed to be forwarded to the Police. However, no action has been taken. Later, by a common order passed by this Court in CrI.M.P.No.17973 of 2022 in CrI.R.C.No.1223 of 2022 and W.P.No.5809 of 2023, though this Court declined to interfere with the closure report, gave liberty to the complainant to file a private complaint. In the same common order, this Court also dismissed the petition to recall the earlier order in



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CrI.R.C.No.17973 of 2022. Thereafter, a detailed complaint has been filed, of course, quoting wrong provision of law. The learned Magistrate, without considering the earlier orders of this Court, forwarded the said complaint to the jurisdictional Police instead of following the procedure under Section 200 Cr.P.C. Therefore, in these circumstances, this Court is of the view that such a procedural violation will not go to the root of the matter. Ultimately, what is to be seen is, whether a cognizable offence is made out or not. At this stage, merely on technicalities, the FIR registered pursuant to such order of the learned Magistrate, cannot be quashed.

10. One more submission made by the learned counsel for the petitioner is that, if the complaint is to be treated as a private complaint by the learned Magistrate, as per Section 223 of Bharatiya Nagarik Suraksha Sanhita, the accused should have an opportunity to defend his case even before cognizance is taken. This Court is of the view that such a contention has no force at all. The entire proceedings has been initiated under the Code of Criminal Procedure. The private complaint, as directed by this Court, has been filed on 06.05.2024, much prior to the Bharatiya Nagarik Suraksha Sanhita, coming into force. Even as per Section 531 of



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BNSS, any proceedings which is pending under the old Code shall be continued in accordance with the provisions of the old Code, viz., Code of Criminal Procedure. Hence, the contention of the learned counsel for the petitioner cannot be countenanced.

11.Considering the nature of allegations in the FIR and since cognizable offences are made out, this Court is not inclined to quash the FIR at this stage merely on technicalities. Accordingly, this Criminal Original Petition is dismissed. Consequent to the dismissal of the main petition, connected miscellaneous petitions, including vacate stay petition, are closed.

**07.10.2025**

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Internet : Yes

Index : Yes / No

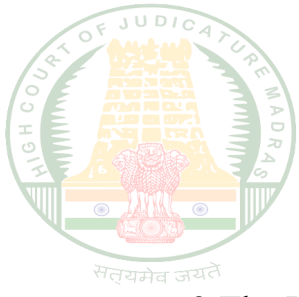
Speaking order : Yes / No

Neutral Citation : Yes / No

To

1.The Inspector of Police,  
District Crime Branch Police Station,  
Tiruppur.

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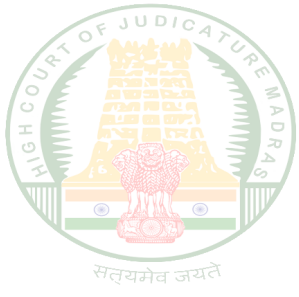
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2. The Public Prosecutor,  
High Court, Madras.

**N. SATHISH KUMAR, J.**

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