

BEFORE THE II ADDITIONAL DISTRICT AND SESSIONS COURT,
ARAKKONAM, RANIPET DISTRICT.

Present: Tmt.K.S.Jayamangalam, M.L.,
II Additional District and Sessions Judge,
Arakkonam.

Tuesday the 9th day of June 2026.

Crl.M.P.No.121/2026 in S.C.No.118/2025

Ramadass S/o Elumalai

...Petitioner/A8

/vs/

The State represented by

Inspector of Police,

Nemili P.S.

Cr.No.223/2025

...Respondent/Complainant

This petition is coming before me for hearing today in the presence of Thiru.S.Thiyagarajan & G.Panneerselvam Learned counsel for the Petitioner and the Learned Additional Public Prosecutor for the respondent and considering that after hearing both sides, this court delivered the following:

ORDER

The petitioner is the 8th accused filed this petition under section 227 of Cr.P.C or Section 250 of BNSS Act 2023 to discharge the petitioner from the case in S.C.No.118/2025.

2. **Brief of petition:-**

(i) The respondent/complainant has filed a charge sheet against the petitioner under sections 191(2), 191(3), 127(2), 103(1), 61(2), 49 of BNS Act 2023. The allegations are frivolous and material on record does not establish his involvement in the alleged offences warranting his discharge under section 227 of Cr.P.C. Initially only the accused A1 to A6 were mentioned in the FIR. The petitioner's name was falsely included only at the time of modification which raises serious doubt about the credibility of the allegations against him. It is settled law that such improvements made at a later stage without any explanation are to be viewed with suspicion. The FIR does not describe any specific overt act on the part of the petitioner. The allegations regarding the verbal abuse and assault by the petitioner has been introduced only during investigation with no corroborative evidence supporting such claims. Such embellishments are not sufficient to form a prima-facie case. There is an over-writing in the FIR. These inconsistencies suggest manipulation of facts to implicate the petitioner falsely as he had not made any involvement in causing the injuries. The first statement in point of time made by the injured must be preferred to any of his subsequent statements-held in (1982) 1 SCC 700 Mohanlal Gangaram Gehani /vs/ State of Maharashtra". The prosecution relies on the confession statement of the 1st accused which mentions the petitioner's presence and her alleged role in verbally abusing Mr.Gnanavel. However, it is well established that the confession of a co-accused is not admissible against another accused unless corroborated by independent evidence. In "Haricharan Kurmi /vs/ State of Bihar (1964) 6 SCR 623 the Supreme court held that the confession of a co-

accused has no substantive evidentiary value against another accused”. It is pertinent to note that at the time of incident the petitioner was confined in judicial custody. The prosecution’s case stems from this enmity and the alteration of FIR the respondent suggest that the petitioner has been falsely implicated to settle personal scores. In this case, no overt act could be established based on the documents supplied by prosecution the petitioner can be discharged. The respondent’s allegations were made with the intent to harass and damage the petitioner’s reputation and livelihood. As held in case, “Sanjya Kumar Rai /vs/ State of U.P & Anr (2021) 2 MLJ CRL 566 SC “Discharge is valuable right provided to the accused trial court shall not act as a mere post-office court should find out whether there are sufficient grounds to try the suspect”. Hence, this court may be pleased to discharge the petitioner/A8 from all the charges.

3. Counter filed by the prosecution:-

(i) This petition is wholly unsustainable both in law and on facts. The materials collected during investigation clearly disclose a prima-facie case against the petitioner therefore he is liable to face trial along with the other accused. The court has only to ascertain whether sufficient grounds exist for presuming that the accused has committed the offence alleged. The investigation conducted by the respondent police has revealed that active involvement of A8 in the occurrence. The charge sheet has been laid only after collecting sufficient oral and documentary materials and after satisfying that there exists adequate evidence to proceed against all the accused including A8. The petitioner has contended that he was allegedly taking treatment for a leg fracture at Puttur, Andhra Pradesh at the relevant point of

time. The said contention is false, self-serving and invented only for the purpose of escaping from criminal liability. It is settled law that a plea of alibi is a matter of defence to be established by the accused through acceptable evidence during trial. Such plea cannot be adjudicated in a discharge petition. The petitioner has contended that his name was not found in the original FIR and subsequently included through alteration report. The FIR is only the earliest information setting the criminal law in motion and it is not expected to contain every minute detail of the occurrence or the name of all participants. During the course of investigation, upon examination of eye witnesses and other witnesses, the complicity of A8 came to light and therefore his name was rightly incorporated in accordance with law. Mere omission of the petitioner's name in the FIR is not a ground for discharge when subsequent investigation reveals his involvement. The petitioner has raised a contention regarding inadmissibility of confession statements of co-accused. The prosecution case does not rest solely upon any confession statement of co-accused. Apart from such materials, there are independent witness statements and surrounding circumstances which establish the presence and participation of A8 in the crime. Therefore, the said contention is wholly misconceived and not a valid ground for discharge.

(ii) The present case relates to a brutal murder committed in broad day light. The accused persons formed themselves into an unlawful assembly, armed with deadly weapons, attacked the deceased Dakshinamoorthy and murdered him in furtherance of their common object. The materials further disclose prior motive, previous enmity and a chain of

events leading to the occurrence. The petitioner cannot seek to evade trial in a serious sessions case of this nature. It is a settled principle of law that if the materials placed before the court disclose grave suspicion against the accused, charges are liable to be framed and the matter has to proceed for trial. At this stage, meticulous appreciation of evidence is impermissible. The present petition has been filed only to delay the proceedings and protract the trial. The petitioner has not made out any legal or factual ground warranting interference by this court. Hence, the petition has to be dismissed.

4. **The point for consideration:-**

1) Whether the petition is to be allowed or not?

5. The petitioner is arrayed as A8 in the above case and he has filed the present petition to discharge him from the charges in the above case. The Learned counsel for the petitioner has argued that in the FIR only 6 accused names are mentioned however the petitioner's name was falsely included in the charge sheet subsequently it creates doubt in the prosecution case. There is no specific overtact against the petitioner in the FIR. At the time of investigation only it is alleged that there was verbal abuse and assault committed by the petitioner without any corroborative evidence. The petitioner fell on the two wheeler and his leg got fractured so he was taking treatment in Puttur, Andhra Pradesh. The petitioner filed the receipt to prove the treatment. There is an over-writing in the FIR the petitioner had no any involvement in committing the death. The prosecution relies the confession-statement of the 1st accused without any corroboration. The

confession-statement of the co-accused is a weak piece of evidence therefore it has to be rejected.

6. By way of reply, the Learned Additional Public Prosecutor has argued that while deciding the discharge petition the court need not conduct a roving enquiry in the prosecution case. The court has to see whether there are prima-facie materials available to proceed against the accused. During the investigation the prosecution has revealed the active involvement of A8 in the occurrence. The averment that the petitioner took treatment is utter false. The plea of alibi is a matter of defence to be established by the accused during the trial and the said plea cannot be adjudicated in a discharge petition. There is no independent witness statement available to corroborate the involvement of A8 is totally false. The present case relates to a brutal murder committed in broad daylight. There are prima-facie materials available to proceed against the accused. Therefore, the present petition is liable to be dismissed.

7. After hearing the arguments of both sides, based on the complaint given by one Duraisamy Pillai a case was registered u/s 191(2), 191(3), 127(2), and 103(1) of BNS Act against 6 persons. According to the petitioner/A8, the petitioner's name has been added subsequently while filing the charge sheet there is no evidence available to corroborate the presence of the petitioner in the commission of offence. Based on the confession of A1, he has been added as an accused and the same cannot be accepted. The Learned Additional Public Prosecutor has vehemently opposed the present petition and argued that a case was registered initially against 6 accused u/s 191(2), 191(3), 127(2) and 103(1) of BNS Act.

subsequently it was altered into 191(2), 191(3), 127(2), 103(1), 61(2), 49 of BNS Act 2023 and added the petitioner and one Vetrivel. During the investigation it has been brought to light that the petitioner/A8 had also involved in the commission of offence. The petitioner's case is that on the date of occurrence he was taking treatment in Puttur, Andhra Pradesh and to prove the said fact he has filed the receipt before this court. According to the petitioner/A8, he sustained fracture in his leg. This court has thoroughly verified with the materials available on record. The petition is totally silent about in which leg the petitioner/A8 sustained fracture, how long he took treatment for the said fracture in Puttur and the name of the treatment center. There is no bar that if the petitioner's name has not been arrayed in the FIR he need not be added as an accused subsequently. The prosecution has got the right to add any person as an accused during the investigation if they found that he or she was involved in the commission of offence. The petitioner's side contended that based on the confession statement of A1 he has been arrayed as an accused in this case and without any corroboration of the independent witness he cannot be arrayed as an accused. It is premature to decide the stand taken by the petitioner/A8. At the time of trial only it can be proved that whether the confession statement of A1 is going to be supported by any independent witness or not. The prosecution has cited totally 34 witnesses to prove the prosecution case. The prosecution has cited L.W.6 Manikandan and L.W.8 Prabakaran to speak about the involvement of the petitioner/A8. Therefore, it is pre-mature to decide that there is no independent witness to corroborate the confession statement of A1 about the involvement of petitioner/A8 in this case. There is no piece of materials produced before this court to decide that the petitioner/A8 was

neither present on the date of occurrence nor shared his intention along with the other accused. In the absence of any materials based on the averments made in the petition alone the present petition cannot be entertained and the same is liable to be dismissed.

In the result, this petition is dismissed.

Dictated by me to the Steno-Typist, typed by her directly to my dictation in computer and print taken out and corrected and pronounced by me in open court, this the 9th day of June 2026,

II Additional District & Sessions Judge,
Arakkonam.