

IN THE COURT OF THE HON'BLE JUDICIAL MAGISTRATE No. II, OF
METTUR

**Present : Thiru.D.Myilswamy, B.Com., B.L.,
Judicial Magistrate No.II,
Mettur.**

Tuesday, the 19th day of August 2025

M.P NO. 1/2025

C.C No.427/2024

Selvaraj, (aged about 40 years)

S/o.Govindan

Samiyappa Nagar, M.Kalipatti,

Mecheri, Salem

.... Petitioner/3rd Accused

Vs

State of Tamil nadu

Represented by Sub Inspector of police,

Mecheri police station

Mecheri

..... Respondent/Complainant

Having heard this petition in the presence of **Thiru.N.Saravannan**, the learned counsel for the petitioner and Thiru. Suresh, the learned for the respondent, on perusal of the records and having stood over for consideration of this application till date, this court on merit doth the following : -

ORDER

Brief facts of the Petition : 1. The petitioner/3rd accused seeking for discharge, the petitioner has reflect the outcome of the final report briefly, then stated on that date of alleged occurrence, the petitioner was working and the attendance of the petitioner clearly indicated that he was not present in the scene of occurrence, the charge sheet supporting concoted story against 3rd petitioner. The final report filed by proseuciton does not apply mind, the ingredients of the offence under section 294 (b) of IPC is

not made out against petitioner. Hence prayed for discharge of the 3rd accused.

Brief facts of the counter statement : 2. The medical evidence show that Lw1 to Lw5 statements are corroborated with facts of the case, the filthy language used by the accused is clearly stated, which caused annoyance to others, that oral and medical evidence shows prime facie hence prayed for dismissal.

3. POINT FOR DETERMINATION :

Whether the petition is maintainable or not ?

DETERMINATION : 4. It is humbly submitted that the above case is posted for further proceedings, during enquiry the petitioner side filed application to call for records under section 94 of BNSS act., after allowance of application, the executive engineer adduce evidence and produced two documents, which marked as Exp1 and Exp2, the petitioner side deposed that the petitioner named selvaraj is working as assistant engineer in thermal plant, he brought attendance register from 01.11.2019 to 30.11.2019, on 16.11.2019 the petitioner come to second shift after noon work, among four shift, the copy of attendance register and time schedule marked as Exp1 and Exp2, the EXP1 showed that selvaraj working on 16.11.2019 at around 1 p.m., in thermal factory.

5. The Petitioner side argued that utterance of filthy words is not attracted as per guidelines, further at that time of occurrence the petitioner was engaged in work at thermal plant, to prove the same, the Pw1 examined and marked Exp1 and Exp2, which is prime facie, that the petitioner has implicated in this case. The respondent side argued that there is no concrete evidence given by Pw1 to prove that accused no.3 not working at thermal plant, the petitioner may be handed over work to other person and go outside due to emergency work, therefore the statement of witness

corroborated with medical evidence, therefore prayed for dismissal.

6. This court go through discussion of both sides, the fact is outlet from final report is that on 16.11.2019 at around 4.45 P.M., when vijayakumar and his mother, father were standing near to well, the said accused no.1,2,3 were come and they scold filthily language, particularly the accused no.3 scold filthily language and instigate the occurrence, which seems that accused no.3 were present on 16.11.2019 at around 4.45 P.M., at place of occurrence, the petitioner side argued that on 16.11.2019, the accused no.3 were present in thermal plant and working, to prove the same, the attendance register produced and marked. By go through ExP1 and extract portion of Pw1 herewith “ 16.11.2019 ம் தேதி செல்வராஜ் என்பவர் இரண்டாம் சிப்டில் மதியம் 1 மணியிலிருந்து இரவு 9 மணி வரை பணியிலிருந்தார் என்று வருகை பதிவேட்டில் உள்ளது “ to disprove the said evidence, there is no contra evidence let in by prosecution side. Without given contra evidence, the evidence of Pw1 is substantive evidence, the Pw1 is third party to the case, he is responsible to the company and brought attendance register and produced before this court, in these regard, there is rebuttal evidence let in by prosecution. The shift timings matched with attendance register, the said period from 13.00 hrs to 21.00 hrs therefore the petitioner/3rd accused was working on 16.11.2019 at around 4.50 P.M., there is no contra evidence to show that accused no.3 indulged in criminal activities.

In the result, the petition is allowed. The Petitioner/3rd accused selvaraj is discharged from this case and directed the prosecution to proceed the case against accused no.1 and 2.

Directly typed by me in the Computer and corrected by me and the order pronounced in the open court on the 19th day of August 2025.

(Sd/-D.Myilswamy)

Judicial Magistrate No.II,

Mettur.

Petitioner side evidence : 28.04.2025

Raman

Pw1

Respondent side evidence : Nil

Petitioner side exhibits :

1. 01.11.2019 to 30.11.2019 Attendance register

Pw1

True copy

2. 01.11.2019 to 30.11.2019 Time schedule

Pw1

True copy

(Sd/-D.Myilswamy)

Judicial Magistrate No.II,

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