BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.08.2025

PRONOUNCED ON : 05.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

Crl.OP(MD)Nos.13177, 13661, 12098, 13525 of 2025
and
Crl.MP(MD)Nos.10415, 10416, 10767, 10889, 10891 of 2025

Crl.OP(MD)No.13177 of 2025:-

Manikandan Nair : Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Nagercoil,
Kanyakumari District.
Cr.No.199/2020

2.Suresh

3.The Secretary,
Bar Council of Tamil Nadu and Pondicherry,
Gate No.4, High Court Building,
Chennai.

4.The Secretary of Nagercoil Bar Association,
District Court Campus,
Nagercoil. : Respondents

[R.3, R.4 are *suo-motu* impleaded vide order dated 06.08.2025]

PRAYER: Petition filed under Section 447 BNSS seeking a direction to transfer the case in SC.No.121 of 2023 from the file of the Principal Assistant Sessions Court, Nagercoil to the file of the Principal Assistant Sessions Court, Tirunelveli.

For Petitioner : Mr.T.Selvan

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

Mr.T.Lajapathy Roy
Senior Counsel
for Ms.T.Seeni Syed Amma for R.2

Mr.Niranjan S.Kumar for R.3

Mr.S.Ananth for R.4

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Crl.OP(MD)No.13661 of 2025:-

1.T.Ani @ Anish

2.R.Rajesh

3.Ramu @ Ramkumar : Petitioners

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.
Cr.No.229/2023

2.Kannan

3.The Secretary,
Bar Council of Tamil Nadu and Puducherry,
Gate No.4, High Court Building,
Chennai.

4.The Secretary of Nagercoil Bar Association,
District Court Campus,
Nagercoil. : Respondents

[R.3, R.4 are *suo-motu* impleaded vide order dated 18.08.2025]

PRAYER: Petition filed under Section 447 BNSS seeking a direction to transfer the case in STC.No.1227 of 2024 from the file of the learned Judicial Magistrate No.II, Padmanabapuram, Kanyakumari District to any other Court having competent jurisdiction in other Districts and consequently, to direct the transferee Court to dispose of the same in the manner known to law.

For Petitioners : Mr.R.Anand

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

Mr.Niranjan S.Kumar for R.3

Mr.S.Ananth for R.4

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Crl.OP(MD)No.12098 of 2025:-

Rani : Petitioner

Vs.

1.The Superintendent of Police,
O/o.Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil,
Kanyakumari District.

3.Suresh

4.Rajesh : Respondents

PRAYER: Petition filed under Section 528 BNSS seeking a direction to the first respondent to provide police protection to the petitioner's life and limb, on the basis of her representation dated 13.07.2025.

For Petitioner : Mr.S.Balaji Nivas

For Respondents : Mr.P.Kottaichamy,
Government Advocate (Crl. Side)
for R.1, R.2

Mr.T.Lajapathy Roy
Senior Counsel
for Ms.T.Seeni Syed Amma for R.3

Ms.J.Anandhavalli for R.4

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Crl.OP(MD)No.13525 of 2025:-

1.Rani

2.Satheesh : Petitioners

Vs.

1.The State, rep. by
The Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil,
Kanyakumari District.
Cr.No.215 of 2025

2.Rajesh : Respondents

PRAYER: Petition filed under Section 528 BNSS to call for the records relating to the case in Crime No.215 of 2025 dated 29.07.2025 on the file of the Nesamony Nagar Police Station, Kanyakumari District and quash the same as against the petitioners.

For Petitioners : Mr.S.Balaji Nivas

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

Ms.J.Anandhavalli for R.2

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COMMON ORDER

These criminal original petitions are taken up together as the issues involved are interconnected and arise out of allegations relating to the conduct of members of the Nagercoil Bar Association and other connected bar associations, resulting in denial of effective legal representation to certain accused persons and also concerning allegations of criminal acts involving certain advocates.

Crl.OP(MD)No.13177 of 2025:-

2.The petitioner is the sole accused in SC.No.121 of 2023 on the file of the Principal Assistant Sessions Court, Nagercoil, facing charges under Sections 294(b), 307 and 506(ii) IPC. The grievance of the petitioner is that the defacto complainant in the said case is the Vice President of the Nagercoil Bar Association, and consequently, the advocates practising at Nagercoil are unwilling to appear for the petitioner.

3.The petitioner states that he was unable to engage a counsel of his choice, compelling the trial Court to appoint a legal aid counsel. He therefore seeks transfer of the trial to the file of the Principal Assistant Sessions Court, Tirunelveli.

4.The defacto complainant entered appearance, denied all allegations and contends that the petition for transfer has been filed only after examination of PW1. It is submitted that no such resolution or intimidation has been made by the Bar Association and that the transfer would cause practical inconvenience for the witnesses and the prosecution.

5.The Nagercoil Bar Association, on being impleaded, has categorically submitted that it has not passed any resolution or circular restraining advocates from appearing in the case, nor has it interfered with the trial in any manner.

Crl.OP(MD)No.13661 of 2025:-

6.The petitioners/accused Nos.1 and 3 in STC.No.1227 of 2024 on the file of the Judicial Magistrate No.II, Padmanabhapuram, seek transfer of the case to any other Court outside Kanyakumari District. Their grievance is that the defacto complainant is an Advocate practising at Padmanabhapuram, and that an informal understanding prevails among the members of the local Bar Association not to represent them.

7.The Nagercoil Bar Association has clarified that it has no role in the said issue, which pertains exclusively to the Padmanabhapuram Court, and that it has been unnecessarily impleaded.

Crl.OP(MD)Nos.12098 and 13525 of 2025:-

8.Both these petitions relate to the same incident. In Crl.OP(MD)No. 12098 of 2025, the petitioner sought for police protection and the FIR in Crime No.215 of 2025 is being questioned in Crl.OP(MD)No.13525 of 2025.

9.The petitioner in Crl.OP(MD)No.12098 of 2025 / Rani is a widow and claims to be residing at Door No.H3/98, Nesamony Nagar, Nagercoil, as a tenant of one Suresh, who is residing abroad. The second respondent in Crl.OP(MD)No.13525 of 2025/defacto complainant, namely, Rajesh, a cousin of the said Suresh, is alleged to have obtained a power of attorney and attempted to forcibly evict her.

10.According to Rani, on 09.07.2025, the said Rajesh, along with about 50 Advocates, trespassed into her house, ransacked the premises, and threw away her household articles. Certain photographs have been annexed in the typed set of papers, which would disclose that some people, in black pant and white shirt and wearing a mask, are present in the house

and that the articles in the house were ransacked and were thrown away. According to Rani, in order to evict her in an illegal manner, the said Rajesh, with the connivance of the respondent police and the Advocates, who are practicing at Nagercoil, has committed this offence.

11.Rani claims that she lodged an online complaint on the same day on 09.07.2025, but the police did not register a case. Instead, based on a belated complaint of Rajesh dated 29.07.2025, the police registered Crime No.215 of 2025 as against her and another, alleging that they attempted to trespass and attack the complainant on 09.07.2025.

12.The complainant / Rajesh has filed a counter affidavit denying the allegations levelled against him. According to him, Rani belongs to a political party and has contested as MLA candidate from the Vilvancode constituency. Using her political power, she is attempting to encroach upon the whole building, even though the rental agreement dated 10.02.2022 covers only the ground floor.

13.This Court, by order dated 14.08.2025, called for a report from the Superintendent of Police, Kanyakumari District. Accordingly, a status report has been filed summarizing the sequence of complaints, but it does not explain as to why the petitioner's earlier complaints dated 09.07.2025 and 31.07.2025 were not acted upon. The report filed is wholly unsatisfactory and evasively states that the Circle Inspector has been instructed to conduct a fair enquiry.

14.This Court paid it's anxious consideration to the rival submissions made by the respective parties and perused the materials placed on record.

15.At the outset, this Court cannot ignore the fact that allegations of this nature against the Nagercoil Bar Association are not novel. Since 2010, not less than thirty cases have reached this Court alleging that resolutions, formal or informal, were passed preventing appearance for certain accused. The list of such cases have also been placed before this Court. The repeated emergence of allegations of this nature indicates a disturbing pattern of

professional indiscipline which threatens to diminish the Bar's standing as an integral component of the judicial process.

16.This Court deems it appropriate to reiterate the settled legal position:-

- Article 21 of the Constitution provides that no person shall be deprived of their life and personal liberty except according to the procedure established by law. The right to a fair trial is a part of Article 21 and the same can be ensured only when the accused are defended by competent Counsel. It is also an essential element of natural justice and fairness inherent in the criminal justice system.
- Article 22(1) guarantees to every person the right to consult and to be defended by a legal practitioner of one's choice.
- Article 39A requires the State to ensure equal opportunity for securing justice and to provide free legal aid where necessary.

Any act, formal or informal, by a Bar Association or its members, preventing an accused from engaging Counsel of choice, is a direct assault on these constitutional guarantees.

17.The Advocates Act, 1961 and Bar Council of India Rules impose a solemn duty upon advocates to accept briefs consistent with their standing and not to refuse representation without special circumstances. Part VI, Chapter II of the Bar Council of India Rules, under "Standards of Professional Conduct and Etiquette", imposes positive obligations on Advocates to uphold the dignity and independence of the profession. The relevant rules are extracted hereunder:

> *"Section I – Duty to the Court*
>
> *1. An advocate shall, during the presentation of his case and while otherwise acting before a court, conduct himself with dignity and self-respect. ...*
>
> *Section II – Duty to the Client*
>
> *... 11. An advocate is bound to accept any brief in the Courts or Tribunals or before any other authorities in or before which he proposes to practise at a fee consistent with his standing at the Bar and the nature of the case. Special circumstances may justify his refusal to accept a particular brief. ...*
>
> *19. An advocate shall not act on the instructions of any person other than his client or his authorised agent."*

18.In ***A.S. Mohammed Rafi v. State of Tamil Nadu*** [***(2011) 1 SCC 688***], the Hon'ble Supreme Court held that such resolutions are wholly illegal, against all traditions of the Bar, and against professional ethics. The relevant portions are extracted as under:-

> *"15.Several Bar Association all over India, whether High Court Bar Associations or District Court Bar Associations have passed resolutions that they will not defend a particular person or persons in a particular criminal case. Sometimes there are clashes between policemen and lawyers, and the Bar Association passes a resolution that no one will defend the policemen in the criminal case in court. Similarly, sometimes the Bar Association passes a resolution that they will not defend a person who is alleged to be a terrorist or a person accused of a brutal or heinous crime or involved in a rape case.*
>
> *16.In our opinion, such resolutions are wholly illegal, against all traditions of the bar, and against professional ethics. Every person, however, wicked, depraved, vile, degenerate, perverted, loathsome, execrable, vicious or repulsive he may be regarded by society has a right to be defended in a court of law and correspondingly it is the duty of the lawyer to defend him."*

19.The principle has been reaffirmed in ***Rupashree H.R. v. State of Karnataka*** [***MANU/SCOR/24033/2024***], wherein a resolution of the Mysore Bar Association not to defend a particular accused was quashed as unconstitutional. The relevant portion is extracted as under:-

> *"3.In that view of the matter, we have proceeded ex-parte. Having perused the impugned Resolution, we are of the definite view that such a Resolution could not have been passed. Right to defend oneself is a Fundamental Right under Part III of the Constitution of India and further right to appear for a client is also a Fundamental Right being a part of carrying on one's profession as a lawyer. As such, the said Resolution is hereby quashed."*

20.Thus, the law does not recognise "collective boycotts," "informal understandings," or "social embargoes" on appearance for any accused person.

21.Upon considering the submissions and the materials on record, this Court is of the opinion that

a) Though no conclusive material has been produced before this Court to show that the Nagercoil Bar Association or any other Associations

passed any formal resolution preventing the accused from being represented, the frequency of such allegations and the difficulty faced by accused persons in securing representation cannot be brushed aside as coincidence.

b) The report filed by the Superintendent of Police, Kanyakumari District, in respect of Crime No.215 of 2025 on the file of the Nesamony Nagar Police Station is perfunctory and fails to inspire confidence. The conduct of the respondent police in ignoring the petitioner's complaints and acting upon a delayed counter-complaint, reflects bias and abdication of duty. There is *prima facie* material suggesting possible collusion between the complainant and some members of the local Bar in the events of 09.07.2025.

c) The Bar Associations are representative bodies meant to uphold professional honour and independence. If they, instead, become instruments of intimidation or exclusion, they betray their own charter and erode public confidence in the administration of justice.

22.This Court cannot turn a blind eye when the right to a fair trial is being compromised under the pretext of professional unity. It is to be reminded that the Bar is not a trade union; it is an institution of constitutional significance. Any attempt to convert it into a pressure group that dictates who may or may not be represented before a Court of law is nothing short of contempt for the rule of law.

23.In view of the above, the following directions are issued:-

i) With respect to Crl.O.P.(MD) Nos.13177 and 13661 of 2025:

- The Principal District and Sessions Judge, Kanyakumari District, shall personally monitor the conduct of the trials in S.C.No.121 of 2023 and S.T.C.No.1227 of 2024.
- The trial Courts shall ensure that the accused are provided effective legal representation of their choice and that no advocate is subjected to intimidation or pressure for appearing on their behalf.
- If any Advocate or Bar Association is found to have interfered, such conduct shall be immediately reported to this Court and to the Bar Council of Tamil Nadu and Puducherry for disciplinary action.

ii) With respect to Crl.O.P.(MD) Nos.12098 and 13525 of 2025:-

- The investigation in Crime No.215 of 2025 on the file of the Nesamony Police Station, Kanyakumari District, together with the petitioner's complaints dated 09.07.2025 and 31.07.2025, is hereby transferred to the CB-CID, Kanyakumari District.
- The Deputy Superintendent of Police, CB-CID, Kanyakumari, shall conduct an independent, comprehensive, and time-bound investigation not only into the incident but also into the conduct of the local police in suppressing the petitioner's complaints and the alleged involvement of Advocates in the trespass and damage to the property in question.
- The investigation shall be completed and a report be filed before the jurisdictional Court within eight weeks.

iii) Disciplinary action by Bar Council of Tamil Nadu and Puducherry:-

- The petitioners / aggrieved parties are at liberty to file detailed complaints before the Bar Council of Tamil Nadu and Puducherry

under Section 35 of the Advocates Act, 1961, if any member of the Bar is found to have violated professional ethics by discouraging or preventing appearance for any accused.

- Any Advocate found participating in or endorsing a boycott of appearance for any accused shall be dealt with sternly, as such conduct constitutes gross professional misconduct and an affront to the justice delivery system.
- The Bar Council of Tamil Nadu and Puducherry is directed to treat any complaint regarding collective refusal or intimidation by Bar Associations with utmost seriousness, and proceed expeditiously in accordance with law.

24.Let it be made emphatically clear — no Bar Association, nor any collective of lawyers, has any authority, moral or legal, to dictate who may or may not be defended before a Court of law. The right to legal representation is not a matter of professional favour but a constitutional guarantee. Such actions of prevention, whether by formal resolution or informal pressure, strike at the very root of the rule of law and the

constitutional guarantees of fair trial and legal representation. The Bar, as an institution integral to the administration of justice, must uphold these values with unwavering commitment.

25.The independence of the Bar is a cornerstone of the judiciary. That independence is not demonstrated by defiance of the law but by adherence to the rule of law. The strength of the legal profession lies not in numbers or solidarity of sentiment, but in courage, conscience, and commitment to constitutional values.

26.This Court expects the Bar in Kanyakumari District and other Districts to think seriously about its duty to justice and act accordingly to protect the respect and trust that the legal profession deserves.

With the above observations and directions, all the petitions stand disposed of. Consequently, connected miscellaneous petitions stand closed.

Internet : Yes **05.11.2025**
gk

To

1.The Superintendent of Police,
Kanyakumari District.

2.The Inspector of Police,
Asaripallam Police Station,
Asaripallam,
Nagercoil,
Kanyakumari District.

3.The Inspector of Police,
Thiruvattar Police Station,
Kanyakumari District.

4.The Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil,
Kanyakumari District.

5.The Secretary,
Bar Council of Tamil Nadu and Pondicherry,
Gate No.4, High Court Building,
Chennai.

6.The Secretary of Nagercoil Bar Association,
District Court Campus,
Nagercoil.

7.The Deputy Superintendent of Police,
CB-CID,
Kanyakumari District.

B.PUGALENDHI, J.

gk

Crl.OP(MD)Nos.13177, 13661, 12098, 13525 of 2025

05.11.2025