



Crl.O.P.No.3462 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.3462 of 2025
and Crl.M.P.Nos.2276 & 2280 of 2025

1. N.Kaja Mydeen
2. Mohammed Hussain
3. Anwar
4. Sheik
5. Mohammed Yosuf
6. Raja Mohammed
7. Syed Sahul Hameed
8. S.K.Mydeen
9. Ansar
10. Kadhar
11. Sahul

... Petitioners

Vs.

1. The State Rep. by
The Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.
(Crime No.150 of 2023)

2. The State Rep. by
The Special Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.

... Respondents

Prayer: Criminal Original petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in C.C.No.325 of 2024 on the file of the V Metropolitan Magistrate Court,



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Egmore, Chennai and quash the same allowing this Criminal Original
Petition.

For Petitioners : Mr.H.Thameen Ansari

For Respondents

For R1 & R2 : Mr.R.Vinothraja
Government Advocate (Crl. Side)

ORDER

This petition has been filed to quash the proceedings in C.C.No.325 of 2024 pending on the file of the learned V Metropolitan Magistrate, Egmore, Chennai, as against the petitioners, thereby taken cognizance for the offences under Sections 143, 151 of IPC.

2. The case of the prosecution is that the petitioners along with some other public people protesting and raising slogans against the NIA agency for conduct the raid in the SDPI State President house. On the basis of the above said allegation, the respondents police registered the complaint and filed a charge sheet against the petitioners and others for the offences under Sections 143 & 151 of IPC, in C.C.No.325 of 2024, on the file the learned V Metropolitan Magistrate, Egmore, Chennai.

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not



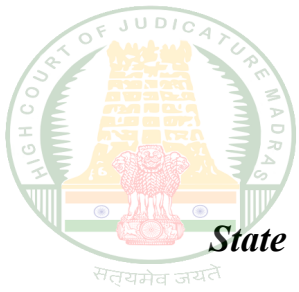
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committed any offence as alleged by the prosecution. Without any base, the first respondent police registered a case in Crime No.150 of 2023 for the offences under Sections 143 & 151 of IPC, as against the petitioners. Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl. Side) would submit that now the matter has been posted for framing of charges. Moreover, the petitioners are the habitual offenders by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5. Heard the learned counsel appearing on either side and perused materials placed before this Court.

6. It is to be noted that while exercising the power under Section 528 of BNSS, the Court should be slow, at the same time, if the Court finds that from the entire materials collected by the prosecution taken as a whole, would not constitute any offence, in such situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons. In this regard, the Apex Court in



State of Haryana and others Vs. Bhajan Lal and Others reported in

1992 Supp (1) Supreme Court Cases 335, has been held as follows :

“

(a) *where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;*

(b) *where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;*

(c) *where the uncontroverted allegations made in the FIR or -complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;*

(d) *where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;*

(e) *where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just*



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conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

7. It is also relevant to note the definition of Unlawful Assembly:

“Unlawful Assembly-

An assembly of five or more persons is designated an ?unlawful assembly?, if the common object of the persons composing that assembly is -

(i) to overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or



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(ii) to resist the execution of any law, or of any legal process; or

(iii) to commit any mischief or criminal trespass, or other offence; or

(iv) by means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(v) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.-

8. Only when the assembly fit into any of the above circumstances, it could be construed as unlawful. The accused had not shown any criminal force to commit any mischief, crime or any offence or by way of criminal force or tried to take possession of the property or right to use of incorporeal right which is in possession or enjoyment of others or rights.

9. In view of the above discussions, the impugned proceedings cannot be sustained and liable to be quashed. According, the proceedings



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in C.C.No.325 of 2024 pending on the file of the learned V Metropolitan

Magistrate, Egmore, Chennai, is hereby quashed as against the petitioners alone.

10. In the result, the Criminal Original Petition stands allowed.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



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G.K.ILANTHIRAIYAN, J.

rts

To

1. The V Metropolitan Magistrate,
Egmore, Chennai
2. The Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.
3. The Special Sub Inspector of Police,
K-8, Arumbakkam Police Station,
Chennai.
4. The Public Prosecutor,
Madras High Court,
Chennai.

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