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CrI.O.P.No. 7776 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

CORAM:

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

CrI.O.P.No.7776 of 2025 and
CrI.M.P.No.5031 of 2025

1.Syed Ibrahim
2.Syed Abuthahir
3.Syed Nasar Mohaideen Syed Najeer Mohideen
4.Shikandar Batsha @ Sikkandhar Basha
5.Shathik Ali @ Sathikali
6.Kalil Rahuman
7.Azhad @ Habib Rahuman
8.Umaibha @ Umaiba
9.Mahamuda @ Mahamuthabegam
10.Rizvana Parveen @ S.Rizwaa Farveen ... Petitioners

Vs.

State Rep. by Sub Inspector of Police,
Dharapuram, Police Station,
Tiruppur.
(In Crime No.504 of 2022) ..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in S.T.C.No.1202 of 2023 in Crime No.504 of 2022 on the file of the Judicial Magistrate, Dharapuram and quash the same.



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CrI.O.P.No. 7776 of 2025

For Petitioners : Mr.A.Rajamohamed

For Respondent : M/s.J.R.Archana,
Government Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.1202 of 2023 on the file of the learned Judicial Magistrate, Dharapuram.

2. The case of the prosecution is that the petitioners, along with others, protested against the Central Government for the illegal raid on the PFI office by the National Investigation Agency (NIA) and the arrest of PFI leaders before the organization's ban, without obtaining prior permission from the concerned authorities. Based on this, the respondent police registered a complaint in Crime No.504 of 2022 dated 22.09.2022, against the petitioners for the offences punishable under Sections 143, 341 and 290 of IPC, 1860.



CrI.O.P.No. 7776 of 2025

WEB COPY

3. The learned Counsel appearing for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. Without any base, the respondent police filed the charge sheet in S.T.C.No.1202 of 2023 on the file of the learned Judicial Magistrate, Dharapuram for the offences under Sections 143, 341 and 290 of IPC, as against the petitioners. Hence, he prayed to quash the same.

4. The learned Government Advocate (CrI.side) would submit that the investigation is completed and the respondent police filed the final report before the learned Judicial Magistrate, Dharapuram in S.T.C.No.1202 of 2023.

5. Heard the learned counsel for the petitioners and the learned Government Advocate (CrI.side) for the respondent and perused materials placed on record.

6. It is to be noted that while exercising the power under



CrI.O.P.No. 7776 of 2025

WEB COPY

Section 482/ Section 528, 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 and 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*



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CrI.O.P.No. 7776 of 2025

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 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.”



CrI.O.P.No. 7776 of 2025

WEB COPY

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

(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



WEB COPY



CrI.O.P.No. 7776 of 2025

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 of enjoyment of others or rights.

9. Accordingly, this Criminal Original Petition stands allowed and the charge sheet filed by the respondent before the learned Judicial Magistrate, Dharapuram in S.T.C.No.1202 of 2023 for the offences under Sections 143, 341 and 290 of IPC is hereby quashed. Consequently, connected miscellaneous petition is closed.

17.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
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WEB COPY



CrI.O.P.No. 7776 of 2025

G.K.ILANTHIRAIYAN, J.

shk

To

1. Judicial Magistrate, Dharapuram
2. The Sub Inspector of Police,
Dharapuram, Police Station,
Tiruppur.
3. The Public Prosecutor,
High Court, Madras.

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