



Crl.O.P.(MD).No.3605 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2025

CORAM:

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

Crl.O.P.(MD).No.3605 of 2025
and Crl.M.P.(MD).Nos.2497 and 2498 of 2025

Gandhirajan

... Petitioner

Vs

1. The State of Tamil Nadu

Represented By

Sub Inspector of Police,

Eriodu Police Station,

Dindigul District.

2. Thirumalaisamy

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023/Section 482 of Cr.P.C, to call for the records relating to the impugned final report of 1st respondent in STC No.198 of 2024 on the file of Judicial Magistrate-I, Dindigul, concerned in Crime No.115 of 2021 on the file of Sub Inspector of Police, Eriodu Police Station, Dindigul, quash the same in so far as the petitioner herein is concerned and allow this criminal original petition.

For Petitioner : Mr.K.Muthu Ganesa Pandian

For R1 : Mr.K.M.D.Muhilan

Government Advocate (Crl.side)

ORDER



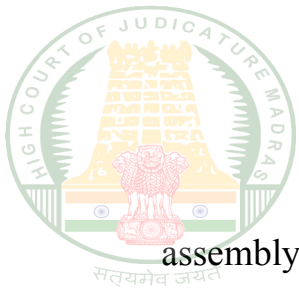
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This Criminal Original Petition has been filed to quash the proceedings in STC No.198 of 2024 on the file of Judicial Magistrate-I, Dindigul.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the first respondent and perused the materials available on record.

3. It is seen that the FIR in Crime No.115 of 2021 has been registered on 03.04.2021 for the offences punishable under Sections 143, 171(E) IPC and it is punishable for a period of one year or fine or both. The period of limitation for filing charge sheet is one year as contemplated under Section 468 of Cr.P.C. For Section 143 of IPC, it is punishable for a period of six months. However, the first respondent filed a final report only on 01.02.2024 viz., after a period of one year from the date of registration of FIR. Further though the date is stated in the charge sheet as 15.06.2023, it is also after a period of one year from the date of registration of FIR. Further, in order to attract the offence under Section 143 of IPC, there must be unlawful assembly as defined under Section 141 of IPC.

4. In order to attract the offence under Section 141 of IPC, the ingredient is that an assembly of five or more persons will become "unlawful



assembly" when they have a common object and the said object falls within the categories mentioned under Section 141 of IPC. When the common object of the assembly does not fall within any categories as specified under Section 141 of IPC, even if the number of the assembly is more than five, the act alleged will not attract the offence of unlawful assembly. Thus, the essence of the offence of unlawful assembly lies in the consensus of purpose of more than five persons to commit an act specified in Section 141 of IPC.

5. Insofar as the offence under Section 171 E of IPC is concerned, it is a non cognizable offence. As soon as the complaint is received in respect of commission of non cognizable offence, the Station House Officer has to follow the mandatory procedure prescribed under Section 155 of Cr.P.C. Accordingly, the Station House Officer shall obtain permission of the concerned jurisdictional Magistrate to register the crime.

6. In the case on hand, the first respondent, without obtaining any prior permission from the Judicial Magistrate, mechanically registered the FIR for the commission of non-cognizable offence.

7. In view of the above, the impugned proceedings cannot be



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sustained and is liable to be quashed. Accordingly, the proceedings in STC No.198 of 2024 on the file of Judicial Magistrate-I, Dindigul, is hereby quashed.

8. In the result, this Criminal Original Petition stands allowed.

Consequently, connected Miscellaneous petitions are closed.

07.03.2025

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
mn



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To

1. The Judicial Magistrate-I, Dindigul.
2. The Sub Inspector of Police,
Eriodu Police Station,
Dindigul District.
3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN. J,

mn

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