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Crl.O.P.No. 7593 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.7593 of 2025
and CMP.No.4872 of 2025

1. Selvamani
2. Ananth
3. Vijayakumar
4. Vasanth
5. Rajasekaravarman @ Rajasekar
6. Marimuthu

... Petitioners

Versus

- 1.State Rep. By
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

2. Boommivel

... Respondents

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, to call for the records in Crime No.393 of 2024 pending on the file of the Inspector of Police, Ariyalur Police Station, Ariyalur District and quash the same.

For Petitioners : M/s S. Tamilnilavu

For Respondents : Mr. A. Gopinath,
Government Advocate (Crl.side)

ORDER



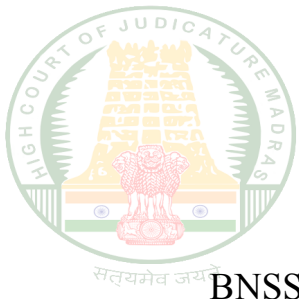
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WEB COPY This Criminal Original Petition has been filed to quash the First Information Report in Crime No.393 of 2024, for the offence under Section 170 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS), 2023.

2. The case of the prosecution is that on 27.11.2024, the Advocates planned to gather near the Court without any permission from the Government with regard to defamatory statements made by them against the Chief Minister of Tamil Nadu and also their party leaders, and attempted to agitate against the Chief Minister of Tamil Nadu, and they were arrested at about 01:00 P.M., for the offence under Section 170 of BNSS, by the respondent police.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. It is seen from the records that in order to attract the offence under Section 170 of BNSS, 2023, there must be an imminent threat to commit cognizable offence and the police officer cannot invoke Section 170 of BNSS. In this regard it is relevant to extract the Section 170 of



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BNSS, as follows :-
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"170. Arrest to prevent commission of cognizable offences.

(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

(2) No person arrested under sub-Section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Sanhita or of any other law for the time being in force.

(3) No person arrested under Sub-Section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Sanhita or of any other law for the time being in force."

5. Thus, it appears that the object of the provision is to prevent a person from committing a cognizable offense that they intend or design to commit. Further, the Police officer must also believe that the commission



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of such offence cannot be prevented otherwise than by the arrest of the person. The provisions of Section 170 of BNSS confer power of detention on the police authority, and hence, an existing emergency must be shown to exist before exercising this power; otherwise, there is a likelihood of misuse. The petitioners attempted to conduct a lawful agitation, raising their voice against the Chief Minister's derogatory statement against a leader in a democratic manner. Hence, the proceedings in Crime No.393 of 2024 are liable to be quashed.

6. Admittedly, this gathering was condemed for raising voices against the Hon'ble Chief Minister of Tamil Nadu over their derogatory statements. Since the statements are alleged to be defamatory and limited to that extent, this Court finds infirmity in the First Information Report. Continuing the investigation would not serve any fruitful purpose, and it is necessary to meet ends of the justice. Hence, this Court is inclined to allow the petition by quashing the FIR registered in Crime No.393 of 2024 pending on the file of the first respondent police.

7. With the above observations, this Criminal Original Petition is



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allowed by quashing the First Information Report in Crime No.393 of 2024 on the file of the respondent police. Consequently, the connected miscellaneous petition is also closed.

17.03.2025

Index : Yes/No

Neutral citation : Yes/No

Speaking/non-speaking order

klt

To

1.The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.

3. The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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