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CrI.O.P.No. 8688 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8688 of 2025 and
CrI.M.P.Nos.5709 and 5710 of 2025

Sivasankaran

... Petitioner

Vs.

Union of India rep. By,
Assistant Sub Inspector, RPF,
Ariyalur.
Crime No.106 of 2017.

..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for records in STC No.440 of 2017 on the file of the learned Judicial Magistrate -I, Ariyalur and quash the same.

For Petitioner : Mr.N.R.Elango,
Senior Counsel for
Mr.A.S.Aswin Prasanna

For Respondent : Mr.Rajesh Vivekananthan,
Deputy Solicitor General /
Standing Counsel for Railway.



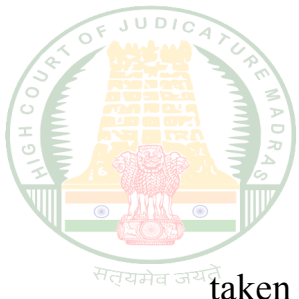
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ORDER

This Criminal Original Petition has been filed to quash the entire proceedings in S.T.C. No. 440 of 2017, pending on the file of the learned Judicial Magistrate No.I, Ariyalur.

2. The case of the prosecution is that on 20.01.2017, the petitioner, along with 1,099 other persons, entered the ALU railway station yard at Point No. 121-123/ALU and squatted on the railway track in front of Train No. 56706 Passenger Express (MDU-VM) in protest against the ban on "Jallikattu" imposed by the Central Government and the order of the Hon'ble Supreme Court of India. They also demanded a ban on People for the Ethical Treatment of Animals (PETA). Based on the said incident, the respondent police registered an FIR in Crime No. 106 of 2017 for offences under Sections 147, 145(b), and 174(a) of the Railways Act, 1989, against the petitioner and 1,099 unnamed persons. After completion of the investigation, a final report was filed, and the case was



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taken cognizance as S.T.C. No. 440 of 2017 before the learned Judicial Magistrate No.I, Ariyalur.

3. The learned Senior Counsel for the Petitioner submitted that though the petitioner had earlier filed a quash petition before this Court, the same was withdrawn. Therefore, the present second quash petition is maintainable due to a change in circumstances. He further contended that the petitioner and others had only entered the railway track as part of a peaceful protest against the ban on Jallikattu, and their actions do not constitute offences under Sections 147, 145(b), and 174(a) of the Railways Act, 1989.

4. Mr.Rajesh Vivekananthan, learned standing counsel for Railway submitted that now trial has been commenced, and there are sufficient materials to attract the offences charged. In support of his contention, he placed reliance on the judgment rendered in *Ezhilarasan v. State represented by Sub Inspector, Railway Protection Force*, reported in **2023 SCC OnLine Mad 869**.



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Court.

5. Heard both sides and perused the material placed before this

6. Before proceeding further, it is necessary to extract the relevant provisions under Sections 147, 145(b), and 174(a) of the Railways Act, 1989, which read as follows:

“147. Trespass and refusal to desist from trespass-

(1) If any person enters upon or into any part of a railway without lawful authority, or having lawfully entered upon or into such part misuses such property or refuses to leave, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both; 52 Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such punishment shall not be less than a fine of five hundred rupees.

(2) Any person referred to in sub-section (1) may be removed from the railway by any railway servant or by any other person whom such railway servant may call to his aid.

145. Drunkenness or nuisance -

If any person in any railway carriage or upon any part of a railway-



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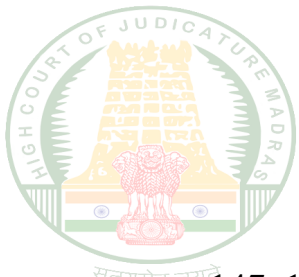
(b) commits any nuisance or act of indecency or uses abusive or obscene language; or he may be removed from the railway by any railway servant and shall, in addition to the forfeiture of his pass or ticket, be punishable with imprisonment which may extend to six months and with fine which may extend to five hundred rupees

174. Obstructing running of train, etc.-

If any railway servant (whether on duty or otherwise) or any other person obstructs or causes to be obstructed or attempts to obstruct any train or other rolling stock upon a railway.-

(a) by squatting or picketing or during any rail roko agitation or bandh; or he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both."

From a combined reading of the above provisions, it is evident that unlawful entry onto a railway track, causing nuisance, or obstructing a train constitutes an offence under the Railways Act, 1989. However, in the present case, the petitioner and others participated in a democratic protest, which *prima facie* does not strictly fall within the ambit of "trespass," "nuisance," or "obstruction" as contemplated under Sections



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147, 145(b), and 174(a) of the Act.
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7. In order to attract the offence under Section 145(b), there is no material evidence to establish that the petitioner or other protestors committed any nuisance, act of indecency, or used abusive or obscene language. The records indicate that the protest was peaceful, and there are no allegations of disorderly conduct that would attract Section 145(b) of the Act. Mere presence at the protest site does not constitute a nuisance within the meaning of the statute.

8. Insofar as the the offences under Sections 147 and 174(a) are concerned, the petitioner and 1,099 other persons entered the railway yard and squatted on the track as part of a protest against the Jallikattu ban. The right to protest is a fundamental right, and mere peaceful demonstration, without violence or damage to railway property, does not amount to an offence under these provisions. That apart, the FIR and final report reveal that except for naming the petitioner and a few others, the respondent police have not identified the other accused persons. The prosecution has not provided any material evidence to establish the



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specific involvement of the petitioner beyond mere participation in the protest. In such circumstances, proceeding with the trial without proper identification of the accused persons would be a futile exercise and an abuse of the process of law.

9. In view of the foregoing discussion, this Court is of the opinion that the continuation of proceedings as against the petitioner is unsustainable, as the ingredients of Sections 147, 145(b), and 174(a) of the Railways Act, 1989, are not made out. Accordingly, the entire proceedings in S.T.C. No. 440 of 2017, pending on the file of the learned Judicial Magistrate No.I, Ariyalur, is hereby quashed and this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

21.03.2025

Neutral citation : Yes/No
Speaking/non-speaking order
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G.K.ILANTHIRAIYAN, J.

shk

To

1. Judicial Magistrate No.I, Ariyalur
2. The Assistant Sub Inspector, RPF,
Ariyalur.
3. The Public Prosecutor,
High Court, Madras.

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CrI.M.P.Nos.5709 and 5710 of 2025

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