



CrI.O.P.No. 8681 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2025

CORAM:

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

CrI.O.P.No.8681 of 2025 and
CrI.M.P.Nos.5705 and 5707 of 2025

Sivasankaran

... Petitioner

Vs.

Union of India rep. By,
The Inspector, RPF,
Tiruchchirappalli Junction.
Crime No.564 of 2013.

..Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 to call for records in STC No.512 of 2014 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. 512 of 2014 pending on the file of the learned Judicial Magistrate I, Ariyalur.

2. The case of the prosecution is that on 12.03.2013, the petitioner, along with others, entered Ariyalur Railway Platform No.2 without prior permission and squatted on the railway track in front of Train No.12636 Vaigai Express (MDU-MS) in protest against the alleged genocide in Sri Lanka, condemning both the Sri Lankan and Indian governments. Based on the said incident, the respondent police registered an FIR in Crime No. 564 of 2013 for offences under Sections 147 and 174(a) of the Railways Act, 1989. After completion of the investigation, a final report was filed, and the case was taken cognizance in S.T.C. No. 512 of 2014 before the learned Judicial Magistrate I, Ariyalur, wherein the petitioner has been arrayed as A1.



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3. The learned Senior counsel for the Petitioner submitted that the petitioner had only participated in a peaceful and democratic protest, which is a fundamental right under the Constitution, and that the alleged act does not constitute trespass or obstruction of a train. Therefore, the continuation of the proceedings would amount to an abuse of process of law.

4. Mr.Rajesh Vivekananthan, learned standing counsel for Railway submitted that the trial has already been commenced and all the prosecution witnesses have been examined before the Trial Court. He contended that there are sufficient materials to attract the offences under Sections 147 and 174(a) of the Railways Act, 1989. 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***.

5. Heard both sides and perused the materials placed before this Court.



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6. Before proceeding further, it is pertinent to extract the relevant provisions under Sections 147 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.

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.-



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(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 clear that unlawful entry onto a railway track or obstruction of a train constitutes an offence under the Act. However, in the present case, the petitioner and others participated in a democratic protest, which *prima facie* does not fall strictly within the ambit of "trespass" or "obstruction" as contemplated under Sections 147 and 174(a) of the Railways Act, 1989.

7. On perusal of the records, it is evident that the petitioner's act was in exercise of his fundamental right to protest, and there is no material to suggest that he had any intention to unlawfully trespass or willfully obstruct the movement of the train. The Hon'ble Supreme Court and various High Courts have consistently held that peaceful democratic protests, unless involving violence or substantial disruption of public order, cannot be construed as criminal offences warranting prosecution.

That apart, even assuming the allegations to be true, this Court, in



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exercise of its limited power under Section 528 of the BNSS Act, finds that no offence is made out as against the petitioner. The continuation of the proceedings against the petitioner would amount to an abuse of process of law and would not serve any fruitful purpose.

8. In view of the above, the entire proceedings in S.T.C. No. 512 of 2014 pending on the file of the learned Judicial Magistrate I, Ariyalur, is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

21.03.2025

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



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To

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



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G.K.ILANTHIRAIYAN, J.

shk

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