



Crl.O.P.No.11468 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2025

CORAM:

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

Crl.O.P.No.11468 of 2025
and
Crl.M.P.No.7631 of 2025

1. Syed Nayamuthulla
2. Syed Rafi Basha @ Gold Rafi
3. Mohammed Lathifullah
4. Basheer Mohammed @ Vannai Bashir
5. Ejas
6. Muneer Basha
7. Mupthi Mujahadhul Islam Kasim
8. Mohammed Arifulla
9. Dasthageer
10. Shahin
11. Mubeena Banu

Vs.

... Petitioners

Inspector of Police,
H1, Washermenpet Police Station,
Chennai - 600 021.
(Cr.No.188/2020)

... Respondent



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PRAYER: Criminal Original Petition filed under Section 528 of BNSS, praying to call for the records relating to the FIR in Crime No.188 of 2020 on the file of the Respondent police and quash the same.

For Petitioners : Mr.M.Saravanan

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to quash the FIR in Crime No.188 of 2020 for the offences under Sections 143, 145, 147 and 290 of IPC, Sections 41 and 71A(1) of TN City Police Act and Section 4B of TN Open Places (Prevention of Disfigurement) Act.

2. The case of the prosecution is that on 04.03.2020, the petitioners and others are gathered at Kannan Roundana, Sajja Munusamy Street and Vijaya Raghavalu Junction without any prior permission against CAA, NPR and Demonetization. As the petitioners and others failed to obey the request to disburse, the respondent police registered the complaint against the petitioners and others for the offences under Sections 143, 145, 147 and 290 of IPC, Sections 41 and 71A(1) of TN City Police Act and Section 4B of TN Open Places (Prevention of Disfigurement) Act in Crime No.188 of 2020.



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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 registered a case in Crime No.188 of 2020 for the offences under Sections 143, 145, 147 and 290 of IPC, Sections 41 and 71A(1) of TN City Police Act and Section 4B of TN Open Places (Prevention of Disfigurement) Act, as against the petitioners and others. Hence, he prayed to quash the same.

4. The learned Government Advocate (Crl.side) would submit that the investigation is almost completed and the respondent police is about to file a final report.

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

6. It is to be noted that while exercising the power under Section 482, 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



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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 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 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;



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(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.”

7. It is also relevant to note the definition of Unlawful Assembly, which reads as follows:-

“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



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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 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 means of criminal force or show of criminal force, tried to take possession of the property or right to use of incorporeal right which is in possession or enjoyment of others or rights.

9. Accordingly, this Criminal Original Petition stands allowed and



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the FIR in Crime No.188 of 2020 registered by the respondent police for the

offences under Sections 143, 145, 147 and 290 of IPC, Sections 41 and 71A(1)

of TN City Police Act and Section 4B of TN Open Places (Prevention of Disfigurement) Act is hereby quashed as against the petitioners alone.

Consequently, connected miscellaneous petition is closed.

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Internet : Yes / No

Index : Yes / No

Speaking / Non Speaking order

kv

To

1. The Inspector of Police,
H1, Washermenpet Police Station,
Chennai - 600 021.

2.The Public Prosecutor,
High Court, Madras.



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G.K.ILANTHIRAIYAN, J.

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