



Crl.O.P.No.22964 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.No.22964 of 2025

and

CrI.M.P.No.15701 of 2025

- 1.Dr.Prabakaran
- 2.Jayakumar
- 3.Sundaramoorthy
- 4.Kannan @ Chinnasamy

... Petitioners

Vs.

- 1.State represented by
The Inspector of Police,
Karumathapatty Police Station,
Coimbatore.
- 2.Shanmugam S.M.
Inspector of Police,
Karumathapatty Police Station,
Karumathapatty,
Coimbatore.

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita to quash the FIR in Crime No.320 of 2018 against the petitioner.



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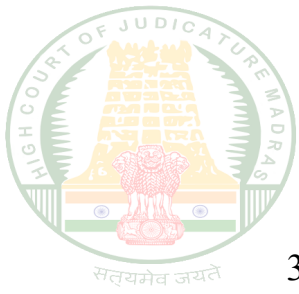
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For Petitioners : Mr.R.Prabakar
For R1 : Mr.R.Vinothraja
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.320 of 2018 on the file of the 1st respondent Police, registered for the offences under Sections 143 and 188 IPC.

2.The allegations in the FIR is that, on 29.07.2018, the petitioners, being social activists, along with 30 women and 10 men, without obtaining any prior permission from the concerned authorities, unlawfully assembled in the place of incident and started a protest against the Government not to open TASMACH Shop in that area. Despite warnings, since the petitioners and their group did not disperse, the Inspector of Police, Karumathapatty Police Station, Coimbatore, registered the present FIR in Crime No.320 of 2018 as against the petitioners, who are arrayed as A1 to A4 and others for the offences under Sections 143 and 188 IPC. Challenging the FIR, the present Criminal Original Petition has been filed.



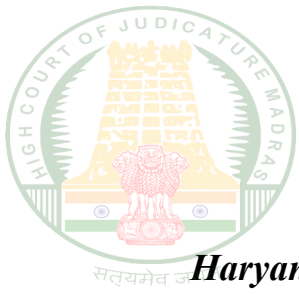
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3.Learned counsel for the petitioners submitted that, even when the entire prosecution case is taken on a face value, the same would not constitute any offence and continuing the prosecution is nothing but abuse of process of law. He would further submit that the Government vide G.O.(Ms) No.409, Home (Court-IV) Department, dated 29.09.2021, has withdrawn 868 cases registered against the protestors who involved in NEET (2014-2021) and TASMAC (2011-2021) agitations. Therefore, he submitted that the present FIR also may be quashed.

4.Heard the learned Government Advocate (Crl. Side) and perused the entire materials available on record.

5.It is to be noted that, while exercising the power under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 of Code of Criminal Procedure, this Court should be slow, but at the same time, if the Court finds that the entire materials collected by the prosecution, even when taken as a whole, would not 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 v. Bhajan Lal and others* reported in 1992 Supp (1)**

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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;

(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



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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.”

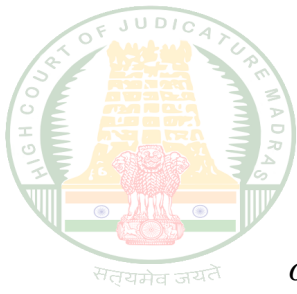
6.It is also relevant to note the definition of “Unlawful Assembly” as under Section 141 IPC :

“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 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



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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.”

7.Only when the alleged assembly fits into any of the above circumstances, it could be construed as unlawful. The materials collected by the prosecution do not show that the accused had shown any criminal force to commit any mischief, crime or any offence or by way of criminal force, tried to take possession of the property or deprive any person of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment. Similarly, it is not the case of the prosecution that the accused had assembled to commit any offence. When the prosecution *prima facie* failed to establish that the assembly of five or more persons was with a common object to commit any offence or falls under any of the circumstances shown under the definition of unlawful assembly under



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Section 141 IPC, mere assembly of more than five persons cannot be construed as an unlawful assembly. Therefore, when the people gathered to show their protest against opening of TASMACH Shop in a democratic way, such a gathering, in the absence of any ingredients under Section 141 IPC, cannot be construed as unlawful assembly nor can be prosecuted under Section 143 IPC.

8. Similarly, to attract the offence under Section 188 IPC, there must be disobedience to order duly promulgated by the public servant. In this case, there is no material or evidence available to show that the accused have assembled to resist the execution of any law and there is no whisper whatsoever available in the First Information Report or in the other materials to show that there was promulgation or there were any prohibitory orders existing at the relevant point of time. Though the FIR quotes Section 30(2) of the Police Act, 1861, this Court in ***Jeevanandam and others Vs. State rep. by the Inspector of Police*** reported in ***2018-2-L.W.(Crl) 606***, has held that the promulgation issued under Section 30(2) of the Police Act, 1861, must satisfy the test of reasonableness and it can only be in the nature of a regulatory power and not a blanket power to trifle any democratic



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dissent of the citizens by the Police. Such a view has also been followed by this Court in ***Moogambigai S.Thirugnanasammantham and others v. State rep. by the Inspector of Police, Karur***, reported in ***2021 0 Supreme [Mad]*** 555, wherein it has been held as follows:

“(9) ... with regard to quashing of the charge sheet for the offence under Section 188 IPC, this Court in ***Jeevanandam and others Vs. State rep. by the Inspector of Police reported in 2018-2-L.W.(Crl) 606*** has relied a judgment in *V.Gowthaman and others Vs. State rep. by its Inspector of Police, St.Thomas Mount Police Station, Chennai* reported in '2018 (4) CTC 252' and held that the cognizance taken by the Magistrate under Section 188 IPC is not permissible and therefore, the prosecution of the accused under Section 188 IPC stands quashed.”

9.In view of the above, this Court is of the view that the entire FIR, when read in entirety, does not make out any offence under Section 143 or Section 188 IPC. Mere launching of FIR by the prosecution itself is not sufficient to arrive at a conclusion that the offences are made out, particularly when the entire materials collected by the prosecution do not support their case. Further, it is also relevant to note that the Government vide their G.O.(Ms) No.409, Home (Court-IV) Department, dated



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29.09.2021, have withdrawn the cases registered against the protestors who

involved in NEET (2014-2021) and TASMAL (2011-2021) agitations.

When the allegations made in the First Information Report, 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, continuing prosecution without any materials, is clear abuse of process of law, and therefore, it is fit case to quash the FIR, as per the dictum of the Hon'ble Supreme Court in *State of Haryana and others v. Bhajan Lal and others* reported in *1992 Supp (1) Supreme Court Cases 335*.

10. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.320 of 2018 on the file of the 1st respondent Police, is quashed. Consequently, connected miscellaneous petition is closed.

19.08.2025

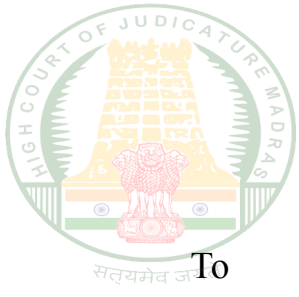
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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No



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To

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- 1.The Inspector of Police,
Karumathapatty Police Station,
Coimbatore.
- 2.The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.

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