



Crl.O.P.No.23016 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.23016 of 2025

and

Crl.M.P.Nos.15725 & 15729 of 2025

- 1.Devasenathipathi
- 2.Vinoth Kumar
- 3.Ganesh Kumar
- 4.Balakrishnan
- 5.Balraj @ Paulraj

... Petitioners

Vs.

- 1.The State represented by its
Inspector of Police,
Pollachi Town Police Station,
Coimbatore District.
- 2.Mr.Parameshwaran,
Sub-Inspector of Police,
Pollachi Town Police Station,
Coimbatore District.

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharatiya
Nagarik Suraksha Sanhita to quash the proceedings in S.T.C.No.472 of 2019
on the file of the Judicial Magistrate No.1, Pollachi.



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

ORDER

This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.472 of 2019 on the file of the Judicial Magistrate No.1, Pollachi.

2.It is the case of the prosecution that, 02.03.2019, the petitioners and others, totally 90 persons, without obtaining any prior permission from the concerned authorities, unlawfully assembled near the Old Bus Stand and raised slogans against the Government to arrest the accused persons in a rape case in Pollachi. While doing so, the petitioners and others prevented the free flow of vehicles and movement of public. Despite warnings, since the petitioners and their group did not disperse, the Sub-Inspector of Police, Pollachi East Police Station, registered a case in Crime No.64 of 2019 as against the petitioners who are arrayed as A3, A9, A11, A17 and A32 and others for the offences under Sections 143 and 341 IPC. Final report was also filed and the same was taken on file by the learned Judicial Magistrate



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No.1, Pollachi, in S.T.C.No.472 of 2019. Challenging the same, the present Criminal Original Petition has been filed.

3.Learned counsel for the petitioners would submit that the petitioners and others have peacefully participated in the protest, which was conducted against the rape of a victim in Pollachi. The protest was peaceful and no criminal force was used either by the petitioners or any of the members of the group. There was no wrongful restraint either of the public or of the vehicles as alleged by the prosecution. Therefore, he would submit that no case has been made out as against the accused and continuation of criminal proceedings is only a futile exercise.

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.

6.It is 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 -*

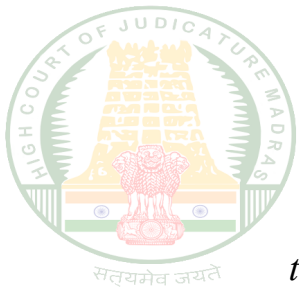
(i) to overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

(ii) to resist the execution of any law, or of any legal process; or

(iii) to commit any mischief or criminal trespass, or other 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,



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*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 of 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 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 the rape of a victim girl in Pollachi, 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.



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8. Similarly, as regards the offence under Section 341 IPC, the list of witnesses shows that most of the witnesses are Police officers. It is relevant to note that no statement has been obtained from any member of public, or individual or vehicle driver as to whether they were prevented or criminally restrained from proceeding further, in order to attract the offence under Section 341 IPC.

9. In view of the above, this Court is of the view that the entire incriminating materials collected by the prosecution, when read in entirety, do not make out any offence either under Section 143 or Section 341 IPC. Further, it is also relevant to note that this Court, in Crl.O.P.No.20 of 2023, by order dated 13.02.2023, has quashed the criminal proceedings as against one of the co-accused on similar grounds that no ingredients are made out to prosecute the accused therein for the offences under Sections 143 and 341 IPC. When the entire materials collected by the prosecution, when read in entirety, do not 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 criminal proceedings.



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10. Accordingly, this Criminal Original Petition is allowed and the proceedings in S.T.C.No.472 of 2019 on the file of the Judicial Magistrate No.1, Pollachi, is quashed. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes

Index : Yes / No

Speaking order : Yes / No

Neutral Citation : Yes / No

To

1. The Judicial Magistrate No.1,
Pollachi.

2. The Inspector of Police,
Pollachi Town Police Station,
Coimbatore District.

3. The Sub-Inspector of Police,
Pollachi Town Police Station,
Coimbatore District.

4. The Public Prosecutor,
High Court, Madras.

N. SATHISH KUMAR, J.

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