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CRL OP No. 23703 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29-08-2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 23703 of 2025

and

CrI.M.P.Nos.16189 & 16190 of 2025

T.Thirumavalavan

Petitioner(s)

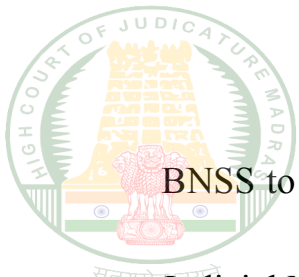
Vs

1. The State rep by
The Inspector of Police
Jayankondam Police Station,
Ariyalur District.
- 2.Velmurugan
S/o. Nagamuthu,
Village Administrative Officer,
Jayankondam, Ariyalur District.

Respondent(s)

PRAYER

This Criminal Originall Petition has been filed under Section 528 of



BNSS to call for the records in STC No.652 of 2024 on the file of the Learned
Judicial Magistrate No.1, Jayamkondam, Ariyalur District and quash the same.

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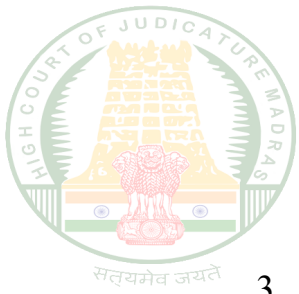
For Petitioner(s): Mr. M.R.Jothimanian,
for Mr.K.Balu

For Respondent(s): Mr. R.Vinothraja,
Govt. Advocate (crl. Side)
for R1

ORDER

This Criminal Original Petition has been filed to quash the STC.No.652 of 20124 pending on the file of the Judicial Magistrate No.I, Jayamkondam, for the offences under sections 143, 341, and 290 of IPC.

2. The petitioner is arrayed as A3. The crux of the allegations in the final report indicates that in connection with the visit of the PMK President to Jayankondam, the petitioners had unlawfully assembled near Jayankondam four roads and caused nuisance to the general public by putting up flags and flex boards. When the police asked them to remove the flags and flex boards, they started agitation against the police and blocked the roads.



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3. The learned counsel for the petitioner would submit that except the allegation that, they prevented the public servant, no details whatsoever found in the final report. Hence, the final report. did not contain any allegation attracting the offence as alleged, but, at the same time, when the allegation contained in the final report itself did not constitute any offence and continuing the case, which has been registered in the year 2023 without any progress, is nothing but an abuse of process of law. He further contended that they gathered only to invite their political leader.

4. The learned Government Advocate [Criminal Side] submitted that the accused illegally assembled and caused disruption to the public, thereby he has been prosecuted.

5. It is to be noted that while exercising the power under Section 528 of BNSS, 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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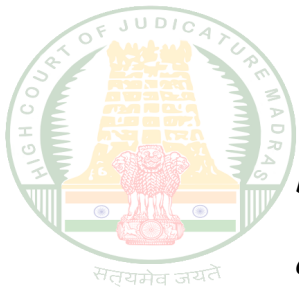
constitute any offence, in such situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons and in

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 been 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

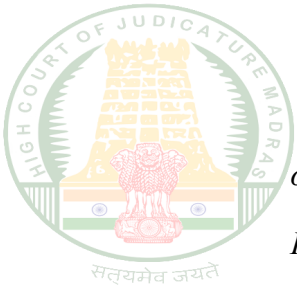


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by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code; (e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is 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:

'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,



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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, 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 assembly fit 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 or tried to take possession of the property or right to use of incorporeal right which is in possession of enjoyment of others or rights.



8. Further, Section 290 IPC will not be attracted, as there is no element of affecting the public. Merely assembling to welcome a political leader, even without prior permission, cannot be construed as causing public nuisance.

9. In this case also, the petitioner has not unlawfully assembled to commit any offence. Of course, they gathered to invite their political leader. At any event, mere gathering of more than 5 persons will not amount to any offence, unless the action of such persons fit into any of the provision found in Section 143 to constitute such assembly as unlawful assembly. In such view of the matter, this Court is of the view that continuation of prosecution is nothing but an abuse of process of law.

10. In such view of the matter and on considering the averments contained in the final report, this Court is of the view that no offence is made out attracting Sec.143, 341 and 290 of I.P.C. Hence, the same is liable to quashed.



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11. Accordingly, this Criminal Original Petition is allowed and the case in STC No.652 of 2024 on the file of the Judicial Magistrate No.I, Jayamkondam, is quashed against the petitioner/A3(T.Thirumavalan). Consequently, connected miscellaneous petitions are closed.

29-08-2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

1. The Judicial Magistrate No.1,
Jayamkondam,
Ariyalur District.

2. The Inspector of Police
Jayamkondam Police Station,
Ariyalur District.



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N.SATHISH KUMAR J.

mrp

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