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Crl.O.P.No.33002 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2025

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.33002 of 2025

and

Crl.M.P.Nos.23061 and 23062 of 2025

1. Saravanan
2. Manoj Prabhakar
3. Anandhan
4. Thirunavukkarasu
5. Jeeva
6. Suganthakumar
7. Tamilselvan

... Petitioners

Vs.

1. The Inspector of Police,
Sivagiri Police Station,
Erode.
2. Ragunathan

... Respondents

PRAYER : Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, to call for the records and quash the proceedings against the petitioner pending in STC. No.200 of 2025, on the file of the learned Judicial Magistrate, Kodimudi, Erode district.

For Petitioners : Mr.S.Nirmal Aditya

For R1 : Mr.S.Santhosh
Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the case in STC No.200 of 2025, for the offences under Sections 189 and 292 of the



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BNS, 2023, and Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, on the file of the learned Judicial Magistrate, Kodimudi, Erode District.

2.The case of the prosecution is that on 22.12.2024, at about 9.45 AM, while the Sub Inspector of Sivagiri Police Station was on patrol near Sivagiri Bus Stand, it is alleged that the petitioners, along with some persons, unlawfully gathered near the bus stand and conducted a procession in cars for a flag launching political function and placed a 4ft * 2ft digital banner in a public place causing disturbance to the public. Based on the above allegations, a case was registered and a final report was filed and the case was taken on file in STC.No.200 of 2025 on the file of the learned Judicial Magistrate, Kodimudi, Erode district, for the offences under Sections 189 and 292 of BNS, and Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

3. The learned counsel for the petitioners would submit that the first petitioner is the founder of a political party “Tamilaga Needhi Katchi” established in the month of February 2025 and an application for registration has been duly submitted to the Election Commission of India and the same is pending consideration . He would further submit that on



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22.12.2024, there was only a political activity connected with the nascent stage of the political party and while assembling, the petitioners have not indulged in any violence. He would submit that even taking into consideration the averments, the offences alleged are not made out as against the petitioners. Since they have only placed a digital banner, it does not amount to any disfigurement or permanent damage and therefore, Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, cannot be invoked in this case.

4. The learned counsel appearing for the petitioners would submit that during the assembly of the petitioners and others, there was no prohibitory order under Section 30(2) of the Police Act, 1861 and no untoward incident or violence occurred; in such circumstances, the respondent has no power to *suo motu* register the case. Further, according to the learned counsel, the facts of the instant case are similar to the case in ***Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District [2018 2 LW (CrI) 606]*** and ***Sri Raja vs. Inspector of Police, Sivakasi Town Police Station Virudhunagar District and others in (CrI.O.P. (MD) No.7922 of 2019 decided on 30.08.2019)***. He would further submit that the above decisions, would apply on all fours to the instant case.



5.Mr.S.Santhosh, learned Government Advocate (CrI.Side) would submit that though prior permission was not obtained by the first respondent Police for registering a case, the offences alleged are made out against the petitioner and therefore, he objects the quashing of the proceedings. However, he would fairly submit that there was no violence or untoward incident and nobody was injured in the said incident and would endorse the above said submission of the learned counsel for the petitioner.

6.Heard the learned counsel on either side and perused the materials available for this case.

7. Admittedly, the case has been registered by the first respondent Police without obtaining any prior permission. In the judgment in **Jeevanandham**, *supra*, it has been held that the police has no right to file a case under Sections 143 and 188 of IPC (Sections 189 and 223 of the BNS, 2023). Further, there was no violence or untoward incident and nobody was injured in the said incident. In such circumstances, the first respondent police has no right to register the case and to investigate the matter.

8.Even as per the entire allegations made, they do not constitute the offences to attract the Section 3 of Tamil Nadu Open Places (Prevention of



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Disfigurement) Act, 1959. In the absence of specific allegation against the petitioners as to affixing such poster on any permanent structure, merely on the basis of such references in the poster, the petitioners cannot be prosecuted.

9. In view of the above, this Court is of the opinion that no useful purpose will be served by keeping the proceedings pending.

Accordingly, the Criminal Original Petition stands allowed and the proceedings in STC No.200 of 2025, pending on file of the learned Judicial Magistrate, Kodimudi, Erode, is hereby quashed against the petitioners. Consequently, the connected Miscellaneous Petitions are closed.

03.12.2025

Neutral Citation:Yes/No
ssa

To

1. The Judicial Magistrate,
Kodimudi,
Erode district.
2. The Inspector of Police,
Sivagiri Police Station,
Erode.
3. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA, J.

ssa

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