

Crl.O.P.(MD)No.602 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.602 of 2025

and

Crl.M.P(MD) No.415 of 2025

M.Pandiarajan

.. Petitioner

Vs.

1. The Inspector of Police
Subramaniyapuram Police Station
Madurai City

2. S.Ganeshpandi
194- Madurai West State Assembly Constituency
Section 1A flying squad
Madurai

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for proceedings pending in STC No.5523 of 2024 on the file of the learned Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioner : Mr.M.Jegadeesh Pandian

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the STC No. 5523 of 2024 on the file of the learned Judicial Magistrate No.IV, Madurai



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2. The learned counsel appearing for the petitioner would submit that the first respondent police has registered a case against the petitioners and others in Crime No.144 of 2024 for the offences under Sections 188 and 286 of IPC. The second respondent/defacto complainant lodged a complaint before the respondent police stating that while he was on duty the petitioner alleged to have approached the defacto complainant and sought permission for election campaign for a candidate Mr.P.Saravanan from ADMK Party. Thereafter on 31.03.2024 at about 9.25 a.m., at ward No.72 near Byekara Ramkumar complex when the candidate was present some persons had bursted crackers while receiving the candidate, despite the condition not to burst crackers, hence the complaint. In fact no such occurrence was happened as alleged by the prosecution. There are no materials available to constitute the offence under Sections 188 and 286 of IPC. Thereafter the respondent police without conducting proper investigation filed final report. The trial Court also without any prima facie materials had taken cognizance. Therefore the pending proceedings is liable to be quashed.



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3. The learned Government Advocate(Crl.Side) appearing for the respondents would submit that while the respondent police was on duty the petitioner have approached the defacto complainant and sought permission for election campaign for a candidate Mr.P.Saravanan from ADMK Party. Thereafter on 31.03.2024 at about 9.25 a.m., at ward No.72 near Byekara Ramkumar complex when the candidate was present some persons had bursted crackers, despite the condition not to burst crackers. Further they did not obtain any permission from the appropriate authorities, therefore they committed offences under Sections 188 and 286 of IPC , hence they registered the First Information Report. Thereafter the first respondent investigated the case and filed final report. As per the final report there are prima facie materials available as against the petitioner, therefore the matter needs elaborate trial.

4. Heard both sides and perused the materials available on record.

5. According to the petitioner the respondent police has registered a case in Crime No.144 of 2024 for the offences under Sections 188 and 286 of IPC and there are no ingredients available to constitute the offence and



there is no any negligence conduct with respect of explosive substance.

They only proceeded in a peaceful manner without breaching any rule, therefore the offence under Sections 188 and 286 of IPC would not attract.

6. This Court also perused the entire materials. On a careful perusal of the First Information Report it is seen that the petitioner along with others have bursted crackers despite the condition not to burst crackers . Therefore in order to attract the offence under Section 188 of IPC there is no any breach of the order duly promulgated by the competent authority and there are no any ingredients to constitute the offence. At the out set no any order promulgated by the competent authority and no breach of order by the petitioner.

7. So far as offence under Section 286 of IPC is concerned there are no ingredients to constitute the offence and the averments in the First Information Report would not constitute the above said offence.

8. At this juncture, the learned counsel appearing for the petitioner relied on the following judgments:



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a) Jeevanantham and others .vs. The Inspector of Police,Velayuthapalayam Police Station, Karur District and another reported in 2018-22 L.W.(Crl.)606

b) K.Sathaiya and others .vs. The Inspector of Police, Arimalam Police Station, Pudukottai District in Crl.O.P(MD) No.75 of 2025.

9. On careful perusal of the above said judgments it is clear that in order to attract the section 188 of IPC there should be order promulgated by the competent authority and the public servant has to file complaint for the breach of order promulgated by the competent authority. when the assembly of persons were expressing dissatisfaction on the governance and claiming for minimum rights that are guaranteed to an ordinary citizen and if such an assembly of persons are to be trifled by registering an FIR under [Section 143](#) of IPC and now equivalent to Section 189(2) of BNS and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.

10. In the case on hand the First Information Report has been registered by the respondent police for the offences under Sections 188



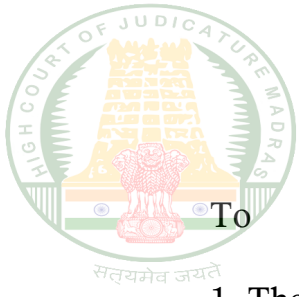
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and 286 of IPC. In order to attract the offence under Section 286 of IPC the complaint must show that there is some negligence in using the explosive substance but there was no mention in the complaint that who burst the crackers, nature of crackers and negligent using of explosive substance. Further nothing indicated in the complaint that such bursting of crackers was negligently used and likely to endanger human life or cause hurt, hence the above said provisions would not attract as against this petitioner. In view of the above discussions, this Court is of the opinion that the pending proceedings in STC No.5523 of 2024 on the file of the learned Judicial Magistrate No.IV, Madurai is liable to be quashed.

11. Accordingly the Criminal Original Petition stands allowed and the STC No.5523 of 2024 on the file of the learned Judicial Magistrate No.IV, Madurai is hereby quashed. Consequently connected miscellaneous petition stands closed.

15.04.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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1. The Judicial Magistrate No.IV, Madurai
2. The Inspector of Police
Subramaniyapuram Police Station
Madurai City
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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