



Crl.O.P.(MD)No.564 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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Mahendran

... Petitioner

Vs.

1.State of Tamil Nadu, Rep. by
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
(Crime No.102 of 2021)

2.Periyasamy,
Village Administrative Officer,
Thiruppuvanam Pudur Group,
Thiruppuvanam Taluk,
Sivagangai District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records relating to the impugned First Information Report in Crime No.102 of 2021, on the file of the first respondent Police, and quash the same.

For Petitioner : Mr.V.Malaiyendran

For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

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The petitioner, who is arrayed as A9 in Crime No.102 of 2021, for the offences under Sections 143 and 341 of the I.P.C. and Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959, has filed this Criminal Original Petition, seeking to quash the proceedings pending against him.

2. The case of the prosecution is that the de-facto complainant, who is the Village Administrative Officer of Thirupuvanam Pudur Group, lodged a complaint with the first respondent Police on 26.03.2021 stating that at approximately 11:00 am on the same day, the de-facto complainant, along with Assistant Mahendran, was conducting a routine patrol during the assembly elections. During the patrol, near Santhai Thidal, in front of K.A.S. Jewelry shop on the Madurai to Rameswaram Main Road, the Leader of the DMK Youth Wing Secretary was campaigning in the area. The accused persons, along with approximately 1000 individuals, gathered without obtaining prior permission from the authorities, thereby violating election rules and regulations. Hence, the first respondent Police registered a case against



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the accused persons and the 1000 individuals involved in Crime No.102 of 2021 for violating the election rules.

3. The learned counsel for the petitioner submits as follows:-

(a) The contents of the FIR against the Petitioner are baseless, fabricated, and do not establish any cognizable offence, rendering the F.I.R. unsustainable and the Petitioner has been falsely implicated in this case.

(b) The Petitioner was not a member of the alleged unlawful assembly as contemplated under Section 143 of the I.P.C. The Petitioner was merely a spectator and did not participate in any unlawful gathering or activity.

(c) The charge under Section 341 of the I.P.C. does not apply to the Petitioner, as the Petitioner did not engage in any wrongful restraint or obstruction of any individual.

(d) Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 does not apply to the Petitioner, as the Petitioner was not involved in the affixing or exhibiting of any advertisements in public places.



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(e) No specific allegations or overt acts are mentioned against the Petitioner in the FIR, and the Petitioner was only taken to the Police Station for routine questioning before being released.

(f) The Petitioner has been falsely implicated in the case, and all individuals present at the location were arbitrarily roped in without any evidence or justification.

4. The learned Government Advocate (Criminal side) submits as follows:

(a) The F.I.R. registered against the Petitioner is based on credible allegations, and the accusations made are not baseless or fabricated. The investigation has revealed that the Petitioner was indeed present at the location and was part of the unlawful assembly, making the F.I.R. sustainable.

(b) The Petitioner's claim that he was merely a spectator is without merit. The presence of the Petitioner at the site of the unlawful assembly, in conjunction with the actions of others, establishes his involvement, and he can be considered a member of the unlawful assembly under Section 143 I.P.C.



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(c) The contention of the learned counsel for the petitioner that Section 341 of the I.P.C. does not apply to the Petitioner is incorrect. The Petitioner, by being part of the unlawful assembly, was involved in obstructing public movement, thus, making him liable for wrongful restraint under Section 341 of I.P.C.

(d) The provisions of Section 4A(1a) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 are applicable to the Petitioner, as his actions, whether direct or indirect, contributed to the unlawful affixing of advertisements in public places without the requisite consent and his involvement cannot be slightly discarded.

(e) The contention of the learned counsel for the petitioner that the Petitioner was a mere spectator is contradicted by the evidence and the statements of other witnesses. The Petitioner's association with the unlawful assembly is clear, and his actions were not passive.

(f) The contention of the learned counsel for the petitioner that no overt act is specified against him in the F.I.R. is without substance. The absence of specific details does not undermine the fact that the Petitioner was present at the scene and contributed to the unlawful activities, justifying his inclusion as Accused No.9.



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(g) The contention of the learned counsel for the petitioner that the petitioner was falsely implicated is not substantiated by any evidence. The F.I.R. was registered after a proper investigation, and the involvement of the Petitioner has been established through the testimony of the witness and other relevant facts.

5. Considering the above said submissions of both the counsel for the Petitioner and the learned Additional Public Prosecutor, and on perusal of the materials on record, this Court finds that the allegations in the F.I.R. against the Petitioner are unfounded and do not disclose any cognizable offence. The Petitioner has not been shown to have participated in the unlawful assembly or engaged in any wrongful restraint, and no specific overt act is attributed to him in the F.I.R. Therefore, the continuation of the criminal proceedings would amount to an abuse of the process of law.

6. In view of the above, this Court quashes the F.I.R. and all subsequent proceedings against the Petitioner and other accused persons,



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who are similarly placed. Accordingly, this Criminal Original Petition is allowed.

NCC : Yes / No

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Index : Yes / No

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To

- 1.The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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Dated: 10.01.2025