



Crl.O.P.(MD)No.595 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

Crl.O.P.(MD)No.595 of 2025

and

Crl.M.P.(MD)Nos.395 and 397 of 2025

Abdul Jafar @ Abdul Jappar

... Petitioner

Vs.

1.The State of Tamil Nadu, Rep. by
The Inspector of Police,
Colachel Police Station,
Kanyakumari.
(Crime No.324 of 2020)

2.Jothi Stanislas,
Sub-Inspector of Police – 195,
Colachel Police Station,
Kanyakumari District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the charge sheet in S.T.C.No. 748 of 2022, on the file of the learned Judicial Magistrate, Eraniel, and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.K.Navaneetharaja

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



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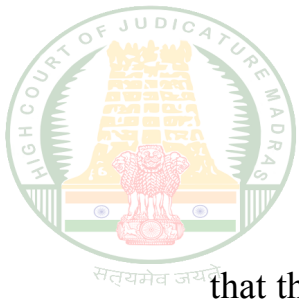
ORDER

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The petitioner/A1, who is facing trial in S.T.C.No.748 of 2022, before the Judicial Magistrate Court, Eraniel, for the offences under Sections 269 and 270 of the I.P.C. and Section 3 of the Epidemic Diseases Act, 1897, has filed the quash application.

2. The case against the petitioner is that, on 05.08.2020, while the second respondent was on patrol duty, the petitioner, along with other individuals, assembled at the location of the incident and staged a protest against the Government. The protest was against the construction of a Ramar Temple in Ayodhya, the Muttalak Act, and the removal of the special status of Jammu and Kashmir guaranteed under Article 370 of the Constitution of India. Based on the above complaint, the first respondent registered a case in Crime No.324 of 2020 for the offences under Sections 269 and 270 of the I.P.C. and Section 3 of the Epidemic Diseases Act, 1897 against the petitioner and others.

3. The learned counsel for the petitioner submits that although the complaint does not disclose any cognizable offences and despite the fact



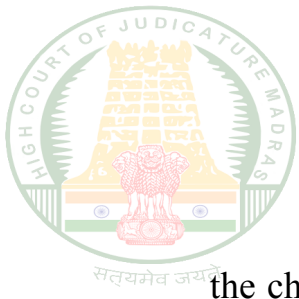
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that the complaint given by the second respondent does not make out any cognizable offences against the petitioner, the first respondent arbitrarily and mechanically registered a case in Crime No.324 of 2020 for offences under Sections 269 and 270 of the I.P.C. and Section 3 of the Epidemic Diseases Act, 1897, in order to appease his higher officials.

3.1. The learned counsel further submitted that the version of the complaint provided by the second respondent, along with the First Information Report (F.I.R.) and the statements of the witnesses, does not *prima facie* make out a case, and therefore, the same is not maintainable. Although the F.I.R. and the charge sheet do not establish any offence under Sections 269 and 270 of the I.P.C. or Section 3 of the Epidemic Diseases Act, 1897, the first respondent willfully registered the case with *mala fide* intent and also laid the charge sheet for the offences under Sections 269 and 270 of the I.P.C. Moreover, no other member of the public has lodged a complaint regarding the petitioners or the incident.

3.2. The learned counsel submits that the first respondent subsequently failed to properly investigate the case and arbitrarily laid



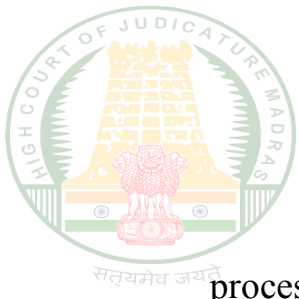
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the charge sheet against seven accused persons in S.T.C.No.748 of 2022 before the learned Judicial Magistrate, Eraniel, and the case was taken cognizance.

3.3. The learned counsel for the petitioner submits that the first respondent failed to consider the fact that the petitioner did not violate the lockdown restrictions, arbitrarily registered the case without any material evidence. The first respondent also failed to consider that no person in the petitioner's village was affected by COVID-19, and hence, the invocation of Section 269 of the I.P.C. is not substantiated.

3.4. The learned counsel further submits that the first respondent failed to take into account that the public gathering was disbanded within a few minutes without any disturbance, and no untoward incident took place on the date of occurrence. The second respondent is not the competent authority to lodge a complaint against the petitioner.

3.5. The learned counsel also submits that the complaint filed by the respondent against the petitioner is nothing but an abuse of the

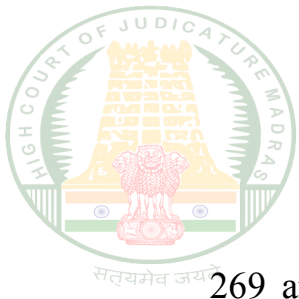


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process of law, and the respondent has not approached the Court with clean hands. Hence, the complaint deserves to be quashed in light of the decision of the Hon'ble Apex Court in the case of **State of Haryana and others vs. Bhajan Lal and others** [AIR 1992 SC 604]. Further, the first respondent ought to have followed the principles laid down by this Court in the case of **Peer Maideen vs. The Sub-Inspector of Police** in **Crl.O.P.(MD)No.10774 of 2020**, dated **05.10.2020**, and in the case of **M.Ebenezar vs. Inspector of Police** in **Crl.O.P.(MD)No.11806 of 2015**, dated **22.10.2018**, and in the case of **Krishnamoorthy and others vs. State** in **Crl.O.P.(MD)No.9889 of 2017**, dated **24.10.2019**.

4. The learned Additional Public Prosecutor submits that the complaint lodged by the second respondent, along with the statements of witnesses, clearly indicates that the petitioner and other accused participated in an illegal public gathering in violation of the lockdown restrictions imposed due to the COVID-19 pandemic. The assembly was not merely a peaceful gathering, but it was done to disrupt public order and health safety measures, which is a cognizable offence. Therefore, the first respondent had sufficient grounds to register the case under Sections



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269 and 270 of the Indian Penal Code and Section 3 of the Epidemic Diseases Act, 1897.

4.1. The learned Additional Public Prosecutor further submits that the allegations in the complaint are that the petitioners were part of a public agitation, which was likely to spread a disease dangerous to life, thus, falling within the purview of Sections 269 and 270 of the I.P.C. These Sections are invoked when a person acts negligently, potentially spreading a dangerous disease. The mere fact that no one in the petitioner's village was affected by COVID-19 does not absolve the petitioner and the other accused of their responsibility, especially when public gatherings were prohibited during the pandemic. The petitioner's actions posed a threat to public health, and it was reasonable for the first respondent to register the case.

4.2. The learned Additional Public Prosecutor denies the contention that the first respondent failed to properly investigate the case. The investigation was carried out based on the complaint and the subsequent enquiry, which included the examination of witnesses who



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confirmed the petitioner's and other accused's involvement in the public gathering. The charge sheet was filed based on material gathered during the investigation, and the same was submitted to the learned Judicial Magistrate, Eraniel. The learned Judicial Magistrate, after considering the charge sheet, took cognizance of the case.

4.3. The learned Additional Public Prosecutor also submits that the public gathering in question was not merely disbanded due to the presence of authorities. It was a politically charged protest that had the potential to disturb public peace and safety. Even if the gathering was disbanded quickly, the mere assembly of a large group of people during a pandemic violates the law and poses a threat to public health.

4.4. On the issue of the competence of the second respondent to file the complaint, the learned Additional Public Prosecutor submits that the second respondent, being a law enforcement official, was within his rights to file the complaint in this case, particularly, as he was part of the patrol team during the incident and witnessed the events firsthand.

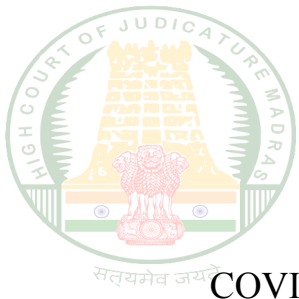


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4.5. The learned Additional Public Prosecutor further submits that there is no abuse of the process of law in this case. The complaint was filed in accordance with the law, and the subsequent registration of the case was based on valid grounds. The contention of the learned counsel for the petitioner that the case is an abuse of process is without merit, as the facts and evidence gathered clearly point to a cognizable offence committed by the petitioner and the other accused.

4.6. Regarding the reliance on the decision of the Hon'ble Supreme Court in **Bhajan Lal's case** (cited supra), the learned Additional Public Prosecutor submits that the case does not apply to the present situation. The facts in **Bhajan Lal's case** (cites supra) were different, and here, the charges are based on specific violations of public health laws, which were duly investigated and substantiated. Similarly, the cases cited by the petitioner, including **Peer Maideen's case**, **M.Ebenezar's case**, and **Krishnamoorthy's case** (cited supra), are distinguishable, as they involved different facts and circumstances. In those cases, this Court found that no *prima facie* case was made out. However, in the present case, there is clear evidence of the petitioner's involvement in violating



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COVID-19 restrictions, which justifies the registration of the case and filing of the charge sheet.

4.7. The learned Additional Public Prosecutor submits that the charges against the petitioner are well-founded and the case was properly registered and investigated and there is no ground made out to quash the charge sheet.

5. Considering the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor and on perusal of the First Information Report (F.I.R.) and the charge sheet, this Court finds that the allegations against the petitioner, although serious, fail to substantiate the invocation of Sections 269 and 270 of the Indian Penal Code and Section 3 of the Epidemic Diseases Act, 1897. There is no direct evidence establishing that the petitioner actively spread or attempted to spread a contagious disease. The mere fact that a public gathering took place during the pandemic does not automatically lead to a presumption of a cognizable offence under these Sections, especially considering that the complaint fails to show any tangible harm caused by the petitioner or any direct link to a public health risk.



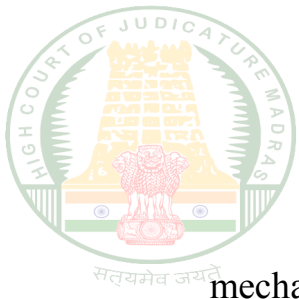
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6. Further, the complaint against the petitioner appears to be isolated, with no other members of the public raising any complaint about the petitioner's actions. No evidence has been produced to show that the public health or order was disrupted by the petitioner's actions, beyond the assertion of the second respondent, who, as a law enforcement officer, appears to have filed the complaint based on his own observations rather than from a broader public grievance.

7. The learned counsel for the petitioner has pointed out that no violations of lockdown restrictions occurred, as the public gathering ended within a short time and no untoward incidents occurred. The petitioner's involvement in the gathering, under these circumstances, does not appear to have led to any tangible public risk or health hazard. Furthermore, the fact that no one in the petitioner's village was directly affected by COVID-19 further undermines the applicability of Sections 269 and 270 of the I.P.C.

8. Further, this Court finds merit in the submission of the learned counsel for the petitioner that the case was registered arbitrarily and



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mechanically by the first respondent, without proper investigation or material evidence to support the charges under Sections 269 and 270 of the I.P.C. or Section 3 of the Epidemic Diseases Act, 1897. The charge sheet appears to have been filed with a *mala fide* intention and in a manner inconsistent with the statutory requirements.

9. Although the second respondent, being a law enforcement official, filed the complaint, it is unclear whether his actions were entirely appropriate under the circumstances, especially considering that no public complaint was involved.

10. Further, it is seen that the filing of the complaint and subsequent charge sheet against the petitioner seems to be an abuse of the legal process, lacking a solid foundation for the charges levelled against him. The petitioner's claim of an abuse of the process of law holds merit, and the F.I.R. and charge sheet do not disclose a case worthy of further proceedings.



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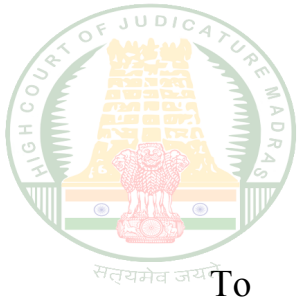
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11. In view of the foregoing, this Court is of the opinion that the charges against the petitioner are without merit and do not warrant further legal proceedings. The case lacks sufficient material evidence to sustain the charges under Sections 269 and 270 of the I.P.C. or Section 3 of the Epidemic Diseases Act, 1897. The registration of the F.I.R. and the subsequent filing of the charge sheet are found to be arbitrary, lacking any substantive basis or supporting materials. Even when considering the uncontroverted statements in their entirety, no case has been established.

12. Accordingly, the Criminal Original Petition is allowed, and the charges against the petitioner and all other accused, who are similarly placed in Crime No.324 of 2020, arising from the F.I.R. and charge sheet in S.T.C.No.748 of 2022 before the learned Judicial Magistrate, Eraniel, are hereby quashed. Consequently, connected Miscellaneous Petitions are closed.

NCC : Yes / No
Index : Yes / No
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- 1.The Judicial Magistrate,
Eraniel.
- 2.The Inspector of Police,
Colachel Police Station,
Kanyakumari.
- 3.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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