



Crl.OP(MD)No.1902 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.1902 of 2024

and

Crl.MP(MD)No.1404 of 2024

K.Ramamoorthy

... Petitioner / Sole Accused

Vs.

1. The State of Tamil Nadu,
Rep by The Inspector of Police,
Cyber Crime Police Station,
Ramanathapuram.
(Crime No.4 of 2024)

... 1st Respondent / Complainant

2. B.Karthikeyan

... 2nd Respondent / De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records in pursuant to FIR in Crime No.4 of 2024 pending on the file of the first respondent police and quash the same.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Criminal Side)



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ORDER

Preface:

This Criminal Original Petition has been filed invoking the inherent powers of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to quash the First Information Report in Crime No.4 of 2024 on the file of the first respondent police.

2. The petition raises an important question concerning the delicate balance between the fundamental right to freedom of speech and expression and the need to preserve public order, particularly in the context of statements made on social media platforms.

Case of the Prosecution:

3. The case of the prosecution, as could be gathered from the materials placed on record, is that on 28.01.2024 at about 10.00 a.m., the second respondent/de facto complainant, who is a Grade I Police Constable attached to the Social Media Cell, Ramanathapuram District, while monitoring the official Facebook page of the district



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police, came across a post made on a Facebook account associated with the petitioner.

4. The said post contained a photograph of the petitioner along with a caption referring to the antiquity of religious structures, namely the Rameswaram Temple and the Keelakarai Mosque, suggesting that the mosque might have been built over a pre-existing Hindu temple. According to the prosecution, the contents of the post had the potential to disturb communal harmony and incite disharmony between two religious communities.

5. Based on the said allegation, a case in Crime No.4 of 2024 came to be registered against the petitioner.

Grounds for Quash:

6. The petitioner seeks quashing of the FIR primarily on the following grounds:

(i) The impugned post does not constitute any offence and does not satisfy the essential ingredients of any penal provision.



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(ii) The petitioner has merely expressed his opinion based on information available in the public domain, without any intention to incite hatred or violence.

(iii) The continuation of the criminal proceedings would amount to an abuse of process of law.

(iv) The petitioner's act is protected under Article 19(1)(a) of the Constitution of India.

Arguments on either side:

7. The learned counsel for the petitioner would submit that the petitioner is the sole accused and that the post in question merely refers to historical aspects relating to certain religious structures. He would further contend that the post does not contain any abusive or inflammatory language and does not call for violence or hatred. It is further submitted that the petitioner has exercised his fundamental right to freedom of speech and expression, and mere expression of a historical or personal opinion, without any overt act of incitement, cannot be criminalised.



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8. Per contra, the learned Government Advocate (Criminal Side) would submit that Ramanathapuram District is communally sensitive, having witnessed incidents of communal violence in the past. He would further submit that posts of this nature on social media platforms have the potential to create unrest and disturb public order.

9. Therefore, according to the learned Government Advocate, the matter requires thorough investigation and the petition for quashing is premature.

10. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for Consideration:

11. The point that arises for consideration in this petition is whether the allegations made in the FIR, even if taken at face value, constitute any cognizable offence warranting continuation of criminal proceedings against the petitioner?



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Analysis:

12. It is a settled principle of law that the inherent powers of this Court under Section 528 of BNSS can be exercised to prevent abuse of process of law and to secure the ends of justice.

13. At the outset, this Court is required to examine whether the allegations in the FIR disclose the commission of any cognizable offence.

14. A careful reading of the FIR would indicate that the gravamen of the allegation is that the petitioner had posted certain content on social media referring to the antiquity of religious structures and expressing a view that a mosque might have been constructed over a temple.

15. The said statement, though touching upon a sensitive subject, does not, on the face of it, contain any explicit call for violence, hatred, or enmity between communities.



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16. It is well settled that mere expression of an opinion, however controversial it may be, would not amount to an offence unless it is shown that the same has a proximate and direct nexus with incitement to violence or public disorder.

17. The Hon'ble Supreme Court has consistently held that the right to freedom of speech and expression includes the right to express views that may be unpopular or dissenting, subject only to reasonable restrictions under Article 19(2) of the Constitution.

18. In the present case, the prosecution has not placed any material to show that the impugned post had actually led to any law and order problem or that it had the tendency to incite imminent violence.

19. The apprehension expressed by the prosecution that such posts may create communal disharmony, though understandable, cannot by itself be a ground to initiate criminal prosecution in the absence of any overt act or direct incitement.



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20. Criminal law cannot be set in motion on the basis of mere conjectures or remote possibilities. The essential ingredients of the alleged offences must be clearly made out from the contents of the FIR. In the considered view of this Court, the continuation of the proceedings against the petitioner would amount to an abuse of process of law.

21. This Court is conscious of the need to maintain communal harmony and public order. At the same time, it is equally important to ensure that the fundamental rights guaranteed under the Constitution are not curtailed on unfounded or speculative grounds.

22. The balance between freedom of expression and public order must be carefully maintained, and criminal law should not be invoked to stifle legitimate expression unless it crosses the threshold of incitement.

23. In the result, the First Information Report in Crime No.4 of 2024 on the file of the first respondent police is hereby quashed, and



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this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

09.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sml

To

1. The Inspector of Police,
Cyber Crime Police Station,
Ramanathapuram.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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