

Crl.O.P(MD) No.3409 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.02.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P(MD) No.3409 of 2025
and
Crl.M.P(MD)Nos.2356 and 2357 of 2025

A.Saravanan

... Petitioner

Vs.

1. The Inspector of Police
Vasudevanallur Police Station
Tenkasi District

2. Mahalingam
Special Sub Inspector
Vasudevanallur Police Station
Tenkasi District

..Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for entire records pertaining to the case in STC No.728 of 2022 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District and quash the same.

For Petitioner : Mr.M.Arunachalam

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



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in STC No.728 of 2022 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District.

2. The case of the prosecution is that on 27.08.2021 at about 10.00 a.m., when the respondent police was on patrol duty the petitioner along with 14 others assembled in front of the Vasudevanallur bus stop and staged protest against the privatization policy of the central government without obtaining any permission from the concerned authorities, thereby causing hindrance to the free movement of the public, hence the First Information came to be registered. Based on the complaint given by the second respondent the first respondent registered a case in **(*)Crime No.238 of 2021** for the offences under Sections 143 and 283 of IPC. After elaborate investigation the first respondent filed charge sheet and the trial Court has also taken the charge sheet on file in STC No. 728 of 2022.

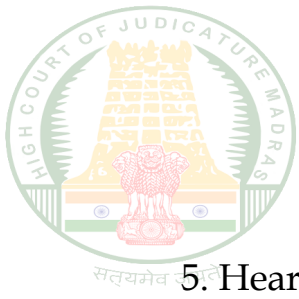
3. The learned counsel appearing for the petitioner would submit that based on the complaint given by the second respondent the first respondent registered a case against the petitioner and others alleging that the petitioner along with others assembled in front of Vasudevanallur bus stop and they were staging protest against the Central Government Policy with out obtaining any permission from the



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concerned authorities. Infact there is no any criminal intent or action by the
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petitioner and the other participants that could constitute the offence under Sections
143 and 283 of IPC which intended purpose negate the every possibility of any
alleged offence. There are no prima facie materials to show criminal intention or
disturbance to register the case for the above said offences. Already this Court in
Crl.O.P(MD) No.1819 of 2025 has quashed the proceedings for protest in peaceful
manner. Further the petitioner is serving as a Ward Member of Ward-14,
Vasudevanallur Town Panchayat violating his fundamental right to peaceful
demonstration without causing any disturbance to others the case has been
registered. Therefore there is no ingredients available to constitute the offence under
Section 143 and 283 of IPC, thereby the present charge sheet is liable to be quashed.

4. The learned Government Advocate(Crl.Side) would submit that the
petitioner along with others demonstrated protest by causing disturbance to the
public and without any permission they conducted demonstration . Therefore the
second respondent lodged complaint and based on the complaint First Information
Report has been registered and after elaborate investigation they filed final report
and there are prima facie materials available as against the petitioner and therefore
the petitioner has to face the trial and hence the petition is liable to be dismissed.



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

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6. The respondent police has registered a case against the petitioner and others in **(*)Crime No.238 of 2021** for the offences under Sections 143 and 283 of IPC. Thereafter the respondent police conducted investigation and filed final report. The main allegation against the petitioner and others is that without any permission they formed unlawful assembly and obstructed the public road and raised slogans, therefore they registered case. Further unlawful assembly has been defined in Section 141 of IPC, which reads as follows:

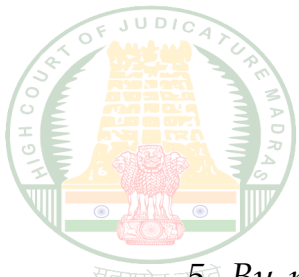
141. Unlawful assembly- An assembly of five or more persons is designated as 'unlawful assembly', if the common object of the persons composing that assembly is :

1. To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

2. To resist the execution of any law, or of any legal process; or

3. To commit any mischief or criminal trespass, or other offence; or

4. By means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or



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5. By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

7. In this case to attract the definition of unlawful assembly there are no specific allegations within the meaning of Section 141 of IPC. Therefore the unlawful assembly itself would not attract in this case. There is no any common object to fulfill the condition of Section 141 of IPC. So far as offence under Section 283 IPC is concerned there is no allegation that this petitioner is doing the act by committing to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, therefore there is no ingredient to constitute the offence under Section 283 of IPC.

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

a) Jeevanantham and others .vs. The Inspector of Police,Velayuthapuram 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.



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9. On careful perusal of the above said judgments it is clear that 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 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 petitioners agitated against the privatization policy of the Central Government in a peaceful manner and no any complaint lodged by any public and no any public movement was curtailed. To attract the offence under Section 143 of IPC there is no any mention that these petitioners formed unlawful assembly with a common intention to resist the execution of any law or of any legal progress. Further the said protest did not cause any public nuisance to anybody. More over there is no unlawful assembly to do the illegal act with common intention. In view of the above discussions, this Court is of the opinion that the pending charge sheet is liable to be quashed.



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11. In the result, the Criminal Original Petition stands allowed and the proceedings in STC No.728 of 2022 on the file of the learned Judicial Magistrate, Sivagiri, Tenkasi District is hereby quashed. Consequently connected miscellaneous petitions stand closed.

Sd/-

28.02.2025

(*) Ammended as per the order passed by the Hon'ble Court on 28/03/2025.

Sd/-

Assistant Registrar

// True Copy //

/01/2025

Sub Assistant Registrar
(CS- I/ II / III / IV)

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To:-

(*) To be substituted to the order already despatched on 28/03/2025

To

1. The Judicial Magistrate, Sivagiri, Tenkasi District

2. The Inspector of Police,
Vasudevanallur Police Station,
Tenkasi District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.SHAAZIM SHAGAR, Advocate (SR-14005[F] dated 04/03/2025)



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