



Crl.O.P.(MD) No.4171 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2025

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THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.4171 of 2025

and

Crl.M.P.(MD) No.2957 of 2025

Mathavan

... Petitioner

Vs.

The State of Tamil Nadu
Represented by
The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
(Crime No.41 of 2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records relating to the impugned charge sheet in C.C.No.4 of 2025 pending on the file of the learned Judicial Magistrate No.I, Nagercoil and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.A.Mohamedhaneef

For Respondent : Mr.R.Meenakshi Sundaram
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed to quash the impugned final report filed by the respondent against the petitioner and others for the offences punishable under Sections 143, 341 and 290 of the Indian Penal Code, 1860, in C.C.No.4 of 2025 on the file of the learned Judicial Magistrate No.I, Nagercoil.

2. The allegation in the final report against the petitioner is that the petitioner, along with others, indulged in a protest without valid permission and caused nuisance and disturbance to the general public, besides causing obstruction to traffic.

3. The learned counsel for the petitioner would submit that the petitioner, along with others, was exercising his right to assemble peacefully and had registered the protest, which could not, by any stretch of imagination, constitute the offences alleged. He would rely upon the judgment of the Hon'ble Supreme Court in ***Manchu Mohan Babu vs. State of Andhra Pradesh and another***, reported in ***2025 INSC 916 : 2025 (2) MPWN 465***, and the judgment of this Court in ***Jeevanandham and***



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others vs. State rep. by Inspector of Police, Velayuthampalayam Police

Station, Karur District and another, reported in ***2018-2-L.W.(Crl.) 606***.

4. The Additional Public Prosecutor for the respondent, per contra, would submit that the petitioner, along with others, participated in the protest and caused obstruction to traffic, besides causing nuisance and disturbance to the general public; and that they had no valid permission to engage in the protest and therefore, the impugned final report is justified.

5. The admitted fact is that the petitioner, along with others, engaged in a protest. The question is whether the assembly of persons and their protest on an issue would constitute the offences alleged by the prosecution.

6. In the case of ***Jeevanandham***, referred to *supra*, which related to a protest without valid permission and when the accused had filed quash petition of the final report filed for the offences under Sections 143 and 188 of the Indian Penal Code, this Court had held as follows:

25. In view of the discussions, the following guidelines are issued insofar as an offence under Section 188 of IPC, is concerned:



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a)A Police Officer cannot register an FIR for any of the offences falling under Section 172 to 188 of IPC.

b)A Police Officer by virtue of the powers conferred under Section 41 of Cr.P.C will have the authority to take action under Section 41 of Cr.P.C., when a cognizable offence under Section 188 IPC is committed in his presence or where such action is required, to prevent such person from committing an offence under Section 188 of IPC.

c)The role of the Police Officer will be confined only to the preventive action as stipulated under Section 41 of Cr.P.C and immediately thereafter, he has to inform about the same to the public servant concerned/authorised, to enable such public servant to give a complaint in writing before the jurisdictional Magistrate, who shall take cognizance of such complaint on being prima facie satisfied with the requirements of Section 188 of IPC.

d)In order to attract the provisions of Section 188 of IPC, the written complaint of the public servant concerned should reflect the following ingredients namely;

i) that there must be an order promulgated by the public servant;

ii) that such public servant is lawfully empowered to promulgate it;

iii)that the person with knowledge of such order and being directed by such order to abstain from doing certain act or to take certain order with certain property in his possession and under his management, has disobeyed; and

iv)that such disobedience causes or tends to cause;



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(a) obstruction, annoyance or risk of it to any person lawfully employed; or

(b) danger to human life, health or safety; or

(c) a riot or affray.

e) The promulgation issued under Section 30(2) of the Police Act, 1861, must satisfy the test of reasonableness and can only be in the nature of a regulatory power and not a blanket power to trifle any democratic dissent of the citizens by the Police.

f) The promulgation through which, the order is made known must be by something done openly and in public and private information will not be a promulgation. The order must be notified or published by beat of drum or in a Gazette or published in a newspaper with a wide circulation.

g) No Judicial Magistrate should take cognizance of a Final Report when it reflects an offence under Section 172 to 188 of IPC. An FIR or a Final Report will not become void ab initio insofar as offences other than Section 172 to 188 of IPC and a Final Report can be taken cognizance by the Magistrate insofar as offences not covered under Section 195(1)(a)(i) of Cr.P.C.

h) The Director General of Police, Chennai and Inspector General of the various Zones are directed to immediately formulate a process by specifically empowering public servants dealing with for an offence under Section 188 of IPC to ensure that there is no delay in filing a written complaint by the public servants concerned under Section 195(1)(a)(i) of Cr.P.C.

This Court will now proceed to deal with the independent cases



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26. Crl.O.P.(MD).Nos. 11834, 15529, 15644, 15621, 16244, 16208, 16075 of 2018

In all these cases, it is seen that a Final Report has been filed for an Offence under Section 188 and 143 of IPC and cognizance has also been taken by the concerned Judicial Magistrates. In view of the above discussion, the cognizance of the Final Report under Section 188 of IPC is liable to be quashed. Insofar as the offence under Section 143 of IPC is concerned, in all the cases, the concerned Police Officer has quoted Section 30(2) of the Police Act, and therefore, has straight away proceeded to register an FIR under Section 143 of IPC. As stated above, a mere violation of the so-called promulgation under Section 30(2) of the Police Act will not make out an offence under Section 143 of IPC by straight away declaring an assembly of persons to be an unlawful assembly. The power under Section 30(2) of the Police Act is merely regulatory in nature. In fact, Section 32 of the Police Act itself provides for a penalty for disobeying an order issued under Section 30(2) of the Police Act with a punishment of a fine not exceeding 200 rupees. Where as an offence under Section 143 of IPC is punishable with imprisonment for a term which may extend to 6 months. Therefore, a violation of the so-called promulgation under Section 30(2) of the Police Act will not by itself constitute an offence under Section 143 of IPC. In all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a ordinary citizen. 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.



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2. Therefore, the Final Report for an offence under Section 143 of IPC is hereby quashed. Accordingly, all the Criminal Original petitions are allowed, and the Final Report filed in each of the case is hereby quashed.

32.Crl.O.P.(MD)Nos. 12684, 15710 and 15709 of 2018

In all these cases, a Final Report has been filed for an offence under Section 143, 341 and 188 of IPC. A Final Report cannot be filed for an offence under Section 188 of IPC, and the Court below ought not to have been taken cognizance. In view of the above discussion, the Final Report insofar as an offence under Section 188 IPC is concerned is hereby quashed. Insofar as the offence under Section 143 IPC is concerned, the allegation is that the assembly had raised slogans demanding for the rights of the farmers, and expressed opposition not to establish a godown and this according to the Police was done, when there was a prohibitory order under Section 30(2) of the Police Act, 1861. In the considered view of this Court, this will not constitute an offence under Section 143 of IPC.

2. In all the cases, the assembly of persons were expressing dissatisfaction on the governance and claiming for minimum rights that are guaranteed to an ordinary citizen. 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. A reading of the Final Report also does not make out an offence under Section 341 of Cr.P.C since any form



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of an agitation, will necessarily cause some hindrance to the movement of the general public for sometime. That by itself, does not constitute an offence of a wrongful restraint.”

7. The Hon'ble Supreme Court in **Manchu Mohan Babu**, referred to *supra*, in a similar circumstances, had held as follows:

18. On a combined reading of the FIR and the charge-sheet, we fail to understand as to how the allegations against the appellants herein could be brought within the scope and ambit of the aforesaid provisions. Taking the allegations in the FIR and the charge-sheet as they stand, the crucial ingredients of the offences under Sections 290, 341, 171F read with 34 IPC and Section 34 of the Police Act, 1861 are entirely absent. A reading of the FIR and the charge-sheet neither discloses any act committed or illegal commission that caused common injury, danger, annoyance to the public or any section of the public or interference with their public rights, nor do they disclose any voluntary obstruction to a person that prevents them from proceeding in any direction that they have a right to proceed in. Further they do not disclose any material to suggest that there was any undue influence at elections, impersonation at elections or any act committed with the intention to interfere with the free exercise of electoral rights. Further they do not suggest that any act was committed on a road or in an open place within the limits of a town that caused inconvenience, annoyance or posed a risk of danger or inquiry or damage to the public, and do not disclose any of the eight specified actions under Section 34 of the Police Act, 1861. Therefore, even if the case of the respondent-State is accepted at its face value, it cannot



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be concluded that the appellants, while conducting the rally and dharna, engaged in any form of obstruction of the road in a manner that led to the offences alleged. The appellants were exercising their right to freedom of speech and expression and to assemble peacefully. Therefore, no purpose will be served by continuing the prosecution.

19. As demonstrated in the above analysis, the facts as they stand, which are not in dispute, indicate that the ingredients of the offence under Sections 290, 341, 171F read with Section 34 of the IPC and Section 34 of the Police Act, 1861 are not established. The High Court erred in concluding that there were specific allegations against the appellants and that there were no tenable grounds to quash the proceedings, and therefore, proceeded to dismiss the application under Section 482 CrPC on a completely misconceived basis. It would have been appropriate for the High Court to have exercised the power available under Section 482 CrPC to prevent abuse of the court's process.

8. The above observations of the Hon'ble Supreme Court and of this Court squarely apply to the facts of the instant case.

9. Since the allegation does not constitute any of the offences, including the offence punishable under Section 290 of the IPC, this Court is of the view that the impugned final report is liable to be quashed and is accordingly quashed.



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WEB COPY 10. In the result, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

Copy To:

- 1.The Judicial Magistrate No.I,
Nagercoil, Kanniyakumari District.
- 2.The Inspector of Police,
Rajakkamangalam Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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