



Crl.O.P.(MD)No.5442 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.5442 of 2025

and

Crl.M.P.(MD).No.3902 of 2025

1.I.Sikkander @ Sikkander Haja Mydeen

2.M.Abdul Majeed

... Petitioners/Accused 1 & 5

Vs.

1.State of Tamil Nadu,
Rep. by the Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
Crime No.267 of 2024.

... 1st Respondent/Complainant

2.P.Kathirvel,
Special Sub Inspector of Police,
Thondi Police Station,
Thiruvadanai Taluk,
Ramanathapuram District.

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the FIR in Crime No.267 of 2024 on the file of the 1st Respondent Police Station and quash the same as it has no prima facie case as against the petitioners.

For Petitioners : Mr.S.Atham Ali

For Respondents : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

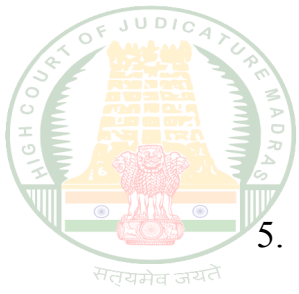
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The petitioners seek for quashing of the FIR in Crime No.267 of 2024 on the file of the first respondent, which was registered for the alleged offence under Section 223(a) of BNS, 2023.

2. The allegation in the FIR is that the petitioners along with others, in violation of the rules and directions issued by the public servants, had protested on a public road obstructing the traffic flow.

3. The learned counsel for the petitioners would submit that the impugned FIR is liable to be quashed since the issue is squarely covered by a series of judgments of this Court, which had held that an FIR cannot be registered for an offence under Section 188 IPC (equivalent to Section 223(a) of BNS, 2023) and that as per Section 195(1)(a)(i) of Cr.P.C (equivalent to Section 215(1)(a)(i) of BNSS, 2023), no Court shall take cognizance of an offence under Section 188 IPC except on a complaint of the public servant concerned.

4. Heard the learned Government Advocate appearing for the respondents.



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5. Section 195(1)(a) of Cr.P.C (Section 215(1)(a)(i) of BNSS) stipulates that no Court shall take cognizance of any offence punishable under Section 172 to 188 IPC (Section 206 to 223 BNS) except on the complaint in writing of the public servant concerned or of some other public servant, who has been authorised to do so by him under clause (a) of sub-section (1), any authority to which he is administratively subordinate. Therefore, the learned Magistrate cannot take any cognizance on the basis of the final report filed by the respondents registered for the offence under Section 223(a) of BNS. Since the respondents lack jurisdiction to file the final report, no useful purpose would be served in keeping the impugned FIR pending investigation.

6. In view of the above, the impugned FIR is liable to be quashed and accordingly quashed. This Criminal Original Petition stands allowed. Consequently, connected miscellaneous petition is closed.

04.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Lm



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To

- 1.The Inspector of Police,
Thondi Police Station,
Ramanathapuram District.
- 2.The Special Sub Inspector of Police,
Thondi Police Station,
Thiruvadanai Taluk,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

Lm

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