

Crl.O.P.(MD)No.15592 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
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DATED : 18.09.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD)No.15592 of 2025

and

Crl.M.P(MD)Nos.12683 and 12686 of 2025

Balamurugan

... Petitioner/ Sole Accused

Vs.

**1.The State of Tamilnadu
The Inspector of Police,
North Police Station,
Thoothukudi District,
(Crime No.486/2016)**

...1st Respondent/Complainant

**2.Rama Subhu
Thasildar Incharge,
Flying Squad Officer,
214-Thoothukudi Assembly Constituency,
Thoothukudi.**

**...2nd Respondent/Defacto
Complainant**

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records in S.T.C.No.1580 of 2022 pending on the file of the learned Judicial Magistrate I, Thoothukudi, Thoothukudi District and quash the same against the petitioner/accused.



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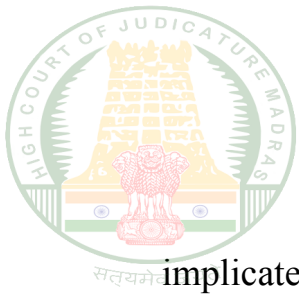
For Petitioner : Mr.K.A.Raamakrishnan
For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor
For R2 : Mr.A.Oliraja
Government Advocate

ORDER

The petitioner seeks quashing of the impugned final report filed in S.T.C.No.1580 of 2022 pending on the file of the learned Judicial Magistrate I, Thoothukudi, Thoothukudi District, for the alleged offences under Section 188 of the IPC and Section 3 of the Tamil Nadu Open Places (Prevention of Disfigurement) Act (herein after referred to as Act).

2. The allegation in the final report is that when the model code of conduct during election was in force, the flag of a political party was installed at a junction by the petitioner and thus, the petitioner has committed the aforesaid offences.

3. The learned counsel for the petitioner would submit that there is no material on record to show that the petitioner was involved in the offence; that the allegations in the FIR or the statements recorded by the Police does not

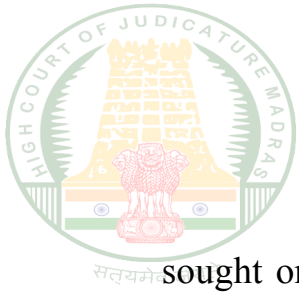


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implicate the petitioner as an accused; and that in any case the final report filed by the Police under Section 188 of IPC cannot be sustained in view of the settled position of law; that the final report filed for the offence under Section 3 of the Act, which is punishable with one year sentence is barred by limitation as the impugned FIR which culminated in the final report was lodged in the year 2016.

4. Admittedly, the FIR was lodged in the year 2016. The name of the petitioner is not found in the FIR. It is well settled that cognizance of the offence under Section 188 of IPC cannot be taken by the Magistrate unless there is a complaint given by the public servant. In this case, the cognizance has been taken on the Police report filed by the first respondent, which is unsustainable.

5. As regards the offence under Section 3 of the Act, maximum sentence provided is one year imprisonment or with a fine that may be extend to one thousand rupees. The period of limitation provided under Section 468(2) of Cr.P.C is three years if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years. It is not the case of the respondents that they were justified in filing a delayed report and they had also



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sought orders from the Magistrate for exclusion of time under Section 470 of Cr.P.C. Hence the final report for the offence under Section 3 of the Act is barred by limitation.

6. In view of the above facts, the impugned final report filed in S.T.C.No.1580 of 2022 on the file of the learned Judicial Magistrate I, Thoothukudi, Thoothukudi District is liable to be quashed and accordingly quashed. This Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petitions are closed.

18.09.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Sn

To

- 1.The Judicial Magistrate I,
Thoothukudi, Thoothukudi District
- 2.The Inspector of Police,
North Police Station,
Thoothukudi District.



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3. Rama Subhu
Thasildar Incharge,
Flying Squad Officer,
214-Thoothukudi Assembly Constituency,
Thoothukudi.

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



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SUNDER MOHAN, J.

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