



Crl.OP(MD)No.19016 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2025

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.19016 of 2025

1. S.Shiek Abdhulla,
2. A.Mohamed Iliyash,
3. S.Abdul Kadhar,
4. N.Kaleel Rakuman,
5. B.Sheyyadhu Mohamed,
6. J.Mohamed Sajith,
7. S.Mohamed Ismail,
8. B.Abdullah,
9. A.Sathik Patcha,
10. K.Shekmathar,

... Petitioners/Accused Nos.1,2,13,
24,59,69,71,73,85,94

Vs.

- 1.State of Tamil Nadu,
Rep. by The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
(Crime No.253 of 2025)

.... Respondent / Complainant



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2. Srinivasa Rengan,
Special Sub Inspector Police Gunasekaran,
Paramakudi Town Police Station,
Paramakudi,
Ramanathapuram District.

... Respondents/
De-facto 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. 253 of 2025 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.I.Kalantaraasik Ahamadu
For R-1 : Mr.B.Thanga Aravindh
Government Advocate (Crl. side)

ORDER

Preface:

This Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to call for the records pertaining to Crime No.253 of 2025 on the file of the first respondent police and to quash the same, insofar as the petitioners are concerned.

2. The petitioners have been arrayed as Accused Nos.1, 2, 13, 24, 59, 69, 71, 73, 85 and 94 in the above crime, which has been



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registered for the alleged offences under Sections 189(2) and 126(2) of the Bharatiya Nyaya Sanhita, 2023.

Case of the prosecution:

3. The case of the prosecution, as borne out from the First Information Report, is that on 24.08.2025, the accused persons, along with several others, gathered near a TASMACH shop situated at SPM Theatre Lane and protested against the opening of the said TASMACH shop. It is alleged that the protest was carried out without obtaining prior permission from the competent authorities and that slogans were raised against the Government. According to the prosecution, due to the said protest, there was disruption to the movement of traffic and inconvenience to the general public. Based on a complaint given by the *de facto* complainant, the first respondent police registered an FIR in Crime No.253 of 2025 for the offences under Sections 189(2) and 126(2) of the Bharatiya Nyaya Sanhita, 2023, against the petitioners and 85 other persons.



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Case of the petitioners:

4. The case of the petitioners is that they are residents of the said locality and belong to peace-loving families with no criminal antecedents whatsoever. According to them, they assembled in a peaceful manner to express their dissatisfaction over the opening of a TASMACH shop in their residential area. It is the specific stand of the petitioners that the opening of the TASMACH shop poses a serious threat to public health, affects the welfare of the community, and results in disturbance to the general public, particularly women and children residing in the locality.

5. The petitioners contend that the protest was conducted peacefully, without causing any disturbance to public peace, and was only an exercise of their fundamental rights guaranteed under the Constitution of India to assemble peacefully and express their grievances. It is further stated that some vested interest persons have unnecessarily included the names of the petitioners in the FIR and that there are no specific overt acts attributed to any of the petitioners. The initiation of criminal proceedings, according to the petitioners, is politically motivated and intended only to harass them.



Grounds for quash:

6. The principal grounds urged by the petitioners for quashing the impugned FIR are as follows:

a) The registration of the FIR is arbitrary, illegal, and amounts to an abuse of process of law.

b) The first respondent police registered the FIR in a hurried manner on the same day, without conducting any preliminary enquiry and without affording an opportunity to the petitioners to offer their explanation.

c) Section 30(2) of the Police Act can be invoked only within the framework of the Constitution, subject to reasonable restrictions, and the same has been mechanically applied without considering the petitioners' fundamental rights.

d) Section 126(2) of the Bharatiya Nyaya Sanhita contemplates punishment for public nuisance only when the act is not otherwise punishable by law and ordinarily requires proof of an injunction against the individual accused, which is conspicuously absent in the present case.



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e) The protest against the opening of a TASMAC shop, carried out with a lawful object, cannot be characterised as an unlawful assembly.

Submissions:

7. The learned counsel appearing for the petitioners submitted that the protest was purely peaceful in nature and was aimed at protecting the welfare of the community from the ill effects of substance abuse. It was further argued that no individual complaint has been received from the general public alleging any inconvenience or disturbance caused by the petitioners and that the FIR has been registered only for the purpose of police statistics. The learned counsel contended that none of the essential ingredients of Sections 189(2) or 126(2) of the Bharatiya Nyaya Sanhita are made out against the petitioners and, therefore, continuation of the criminal proceedings would result in grave injustice.

8. The learned Government Advocate (Crl. side) appearing for the respondents submitted that the protest was conducted without prior permission and resulted in disruption to traffic and public



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movement. It was contended that raising slogans against the Government and assembling in large numbers near a public place without permission justified the registration of the FIR and that the investigation is still at a nascent stage.

9. This Court has carefully perused the materials available on record and considered the submissions advanced on either side.

Point for consideration:

10. The point that arises for consideration in this Criminal Original Petition is whether the continuation of criminal proceedings against the petitioners in Crime No.253 of 2025 for the alleged offences under Sections 189(2) and 126(2) of the Bharatiya Nyaya Sanhita, 2023, would amount to an abuse of process of law warranting interference under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023?

Analysis:

11. A perusal of the FIR does not disclose any specific overt act attributed to any of the petitioners. The allegations are general in



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nature and do not demonstrate how each of the petitioners individually committed the alleged offences.

12. Section 126(2) of the Bharatiya Nyaya Sanhita contemplates punishment for public nuisance, not otherwise punishable by law, with a fine which may extend to Rs.200/-. The provision ordinarily presupposes the existence of a prior injunction or specific restraint order against the accused, which has not been placed on record in the present case.

13. Further, the materials placed before this Court do not indicate that the protest was violent or that it resulted in any tangible damage to public property or serious obstruction warranting criminal prosecution. The right to assemble peacefully and express dissent is a fundamental right guaranteed under Articles 19(1)(a) and 19(1)(b) of the Constitution of India, subject to reasonable restrictions. Any curtailment of such rights must strictly conform to the procedure established by law.



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14. The invocation of criminal law in the present case, in the absence of specific allegations or material indicating commission of cognizable offences by the petitioners, appears to be excessive and disproportionate. This Court is of the considered view that permitting the criminal proceedings to continue against the petitioners would result in abuse of process of law and cause undue harassment.

15. In the result, this Criminal Original Petition is allowed, and the FIR in Crime No.253 of 2025 on the file of the first respondent police is quashed insofar as the petitioners are concerned.

09.12.2025

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

To

- 1.The Inspector of Police,
Paramakudi Town Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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