



CRL OP(MD). No.18442 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 27/10/2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.18442 of 2025

and

CrI.M.P(MD) Nos.15185 and 15186 of 2025

Mohamed Serif @ Mohamed Shar

... Petitioner

Vs

1.The State of Tamilnadu,
Rep by Inspector of Police,
Pathamadai Police Station,
Tirunelveli,
Crime No.45/2025.

2.Balasubramanian,
S/o.Not known
Sub Inspector of Police 2516,
Pathamadai Police Station,
Tirunelveli District.

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the charge sheet in STC No. 517/2025 on the file of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi and quash the same as illegal so far as the petitioner is concerned.

For Petitioner : Mr.K.Navaneetharaja,
Advocate.



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CRL OP(MD). No.18442 of 2025

For R1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the impugned charge sheet in STC No.517/2025 on the file of the learned District Munsif cum Judicial Magistrate, Cheranmahadevi, which was filed for the offences under Section 189(2) and 241 of BNS (corresponding to Section 143 and 204 of IPC).

2. The allegation in the charge sheet is that the petitioner, along with other persons of the SDPI party, assembled in front of Malukamaliyar Pallivasal Pathamadai, tore the copy of the Waqf Amendment Bill, caused nuisance and disturbance to the general public and obstructed traffic.

3. The learned counsel for the petitioner would submit that the petitioner, along with others, was exercising his right to assemble peacefully, which could not, by any stretch of imagination, constitute the offences alleged. He would rely upon the judgment of this Court in the case of *Jeevanandham and others vs. State rep. by Inspector of Police*,



CRL OP(MD). No.18442 of 2025

Velayuthampalayam Police Station, Karur District and another,

reported in ***2018 SCC OnLine Mad 13698*** in support of his submissions.

4. The learned Additional Public Prosecutor appearing for the first respondent, per contra, would submit that the petitioner, along with others, participated in an unauthorized protest and caused obstruction to traffic, besides causing nuisance and disturbance to the general public; and therefore, the impugned charge sheet is justified.

5. Admittedly, the petitioner, along with others, participated in a protest. The question is whether such an act 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 offence under Section 143 of IPC, this Court had held as follows:

"35.Crl.O.P.(MD)No.11836 of 2018:-

In this case, the Final Report has been filed only for an offence under Section 143 of Cr.P.C and the



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CRL OP(MD), No.18442 of 2025

Court below has taken cognizance of the Final Report. A reading of the allegations made in the Final Report would show that a group of persons were agitating for non supply of the essential commodities in a ration shop. In this case, the FIR was registered under Section 143 and 188 of IPC. The Final Report was filed for an offence under Section 143 of IPC. Insofar as the offence under Section 143 of IPC is concerned, 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 this case, the assembly of persons were made to express dissatisfaction of 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."



CRL OP(MD). No.18442 of 2025

7. The above observations of this Court would squarely apply to the facts of the instant case. Further, with regard to the offence under Section 241 of the BNS, corresponding to Section 204 of IPC, the essential ingredient of the offence is the destruction or concealment of a document which may lawfully be compelled to be produced as evidence in a Court of justice. Admittedly, what was torn by the petitioner is a xerox copy of the Waqf Amendment Bill and it would not fall within the ambit of Section 241 of the BNS. Hence, the offence under Section 241 of the BNS would not be made out and no useful purpose would be served in continuing the prosecution.

8. Since the allegation does not constitute any of the offences, this Court is of the view that the impugned charge sheet is liable to be quashed and is accordingly quashed.

9. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

27.10.2025

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



CRL OP(MD). No.18442 of 2025

To
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- 1.The District Munsif cum Judicial Magistrate, Cheranmahadevi
- 2.The Inspector of Police,
Pathamadai Police Station,
Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court.



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CRL OP(MD). No.18442 of 2025

SUNDER MOHAN,J

CP

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