



Crl.OP(MD)No.21518 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.21518 of 2025

and

Crl.MP(MD)No.18511 of 2025

Mohamed Faisal

... Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by its The Inspector of Police,
Gandhi Market, Police Station,
Trichy District.
(In Crime No. 664 of 2019)

... 1st respondent / Complainant

2.Thangamani

... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the case registered in FIR in Cr.No. 664 of 2019 and quash the same as illegal in so far as the petitioner herein is concerned and to pass such other orders

For Petitioner : Mr.R.Venkatesan

For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. side)

ORDER

This Criminal Original Petition has been filed under Section 528 of the BNSS,2023 seeking to call for the records relating to the



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First Information Report in Crime No.664 of 2019 on the file of the respondent police and to quash the same in so far as the petitioner is concerned.

Facts of the Case:

2. The FIR in Crime No.664 of 2019 was registered for offences under Sections 143, 341 and 283 of the IPC, corresponding to Sections 189, 126 and 285 of the Bharatiya Nyaya Sanhita, 2023, and Sections 41-A and 71-A(1) of the Tamil Nadu City Police Act, 1888.

3. The case of the prosecution is that on 15.11.2019 at about 6.00 p.m., the respondent police, while on patrol duty near Gandhi Market, allegedly noticed a group of persons belonging to the Popular Front of India staging a protest in a public place without prior permission, allegedly against the judgment delivered concerning the demolition of the Babar Mosque at Ayodhi.

4. It is further alleged that while the police attempted to disperse the protestors, the petitioner failed to comply with their



instructions and allegedly fled from the scene when the police attempted to apprehend him. Based on this, the FIR came to be registered on the same day.

5. The petitioner submits that he became aware of the FIR only when he applied for issuance of a passport and received communication from the Passport Authority informing him of the pendency of the criminal case.

Submissions:

6. The learned counsel for the petitioner submits that the petitioner is a law-abiding citizen who has been maliciously implicated without any material. A plain reading of the FIR does not attribute any overt act to the petitioner.

7. It is further contended that the FIR does not disclose the basic ingredients of the offences alleged. There is no whisper of violence, criminal force, mischief, trespass, obstruction or injury. There is no mention of any specific victim, nor does the FIR disclose how the petitioner obstructed any person or caused any danger.



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8. The learned counsel places reliance on the judgment of this Court in **Ashraf vs. State**¹, Crl.O.P.No.3163 of 2022, dated 14.02.2022, wherein this Court held that when a peaceful protest does not result in violence or any law-and-order deterioration, registration of criminal cases against mere participants is impermissible.

9. The petitioner also relies on the dictum of the Hon'ble Supreme Court in **Himat Lal K. Shah vs. Commissioner of Police, Ahmedabad**², reiterating that the fundamental right to assemble peacefully cannot be curtailed except by a reasonable restriction.

10. The learned counsel further contends that the case of the petitioner squarely falls within the principles laid down by the Hon'ble Supreme Court in **M/s. Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra**³, wherein unnecessary criminal prosecution without ingredients of an offence warrants interference under Section 482 Cr.P.C, 1973.

¹ 2022 LiveLaw (Mad) 92

² (1973) 1 SCC 227

³ (2021) 19 SCC 401



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11. The learned Government Advocate (Crl. Side) would submit that the FIR was registered based on the complainant's observation, and investigation is the proper course. He would contend that the petitioner was part of an unlawful assembly that had gathered without permission. Beyond the FIR allegations, no further specific materials were produced by the prosecution to show any act of violence, obstruction, danger, or overt conduct attributable to the petitioner.

12. Heard the learned counsels on either side and carefully perused the materials available on record.

Analysis:

13. On a careful reading of the FIR, this Court finds that no ingredient of Section 141 IPC (unlawful assembly) is made out. The FIR does not state how the assembly became unlawful or how it intended to commit any offence. The mere fact that the individuals assembled without permission does not, by itself, constitute an unlawful assembly within the strict parameters of Section 141 IPC.



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14. As regards Section 341 IPC (wrongful restraint), the FIR is completely silent as to who was obstructed, how such obstruction was caused, and what act of the petitioner prevented any movement. Hence, the foundation for the offence is absent. Likewise, Section 283 IPC, which deals with obstruction or danger caused in any public way, requires clear averments of danger, injury, or obstruction. The FIR discloses none.

15. The offences under the Tamil Nadu City Police Act are also not attracted, as there is no material to show disobedience of any lawful order or any act prejudicial to public order. Most importantly, the FIR itself admits that no violence, no untoward incident, and no breach of peace occurred at the place of protest.

16. This Court has repeatedly held that peaceful expression of dissent, even if technically conducted without permission, cannot automatically criminalise the participants unless their conduct satisfies the ingredients of a penal provision. Criminal law cannot be used as a tool to muzzle dissenting voices. The registration of the FIR, in the absence of any overt act, clearly infringes the petitioner's



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rights guaranteed under Articles 14, 19(1)(a), 19(1)(b), and 21 of the Constitution of India.

17. Applying the law laid down by the Hon'ble Supreme Court in ***M/s. Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra***⁴, this Court must intervene when the FIR does not disclose the commission of any cognizable offence. Thus, allowing the FIR to survive would be an abuse of process of law.

18. For all the aforesaid reasons, this Court is of the considered view that the FIR in Crime No.664 of 2019, insofar as the petitioner is concerned, does not disclose the commission of any offence and is liable to be quashed.

19. Accordingly, this Criminal Original Petition is allowed. The FIR in Crime No.664 of 2019 on the file of the respondent police is quashed as against the petitioner alone. Consequently, connected miscellaneous petition is closed.

01.12.2025

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

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To

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- 1.The Inspector of Police,
Gandhi Market, Police Station,
Trichy 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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