



CRL OP(MD). No.20393 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 18.11.2025

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

**CRL OP(MD). No.20393 of 2025
and
CrI.MP(MD)Nos.18261 & 17262 of 2025**

1. Kasimayan,
2. Mithun Chakravarthi, ... Petitioners

Vs

1. State of Tamilnadu Rep by
Inspector of Police,
Theni Police Station,
Theni District.
Crime No.892/2019.

2. Kumaresan, ... Respondents

PRAYER :-This Petition is filed under Section 528 BNSS, to call for the records pertaining in STC No.2772 of 2022 before the learned Judicial Magistrate, Theni and quash the same as illegal against the petitioner.

For Petitioners : Ms.A.Banumathy,

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



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ORDER

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This Criminal Original Petition has been filed seeking to quash the final report in S.T.C. No.2772 of 2022 before the learned Judicial Magistrate, Theni, filed against the petitioners for the offences punishable under Sections 143 and 341 of the Indian Penal Code (corresponding to Sections 189(2) and 126(2) BNS).

2. The gist of the allegations in the final report is that the petitioners formed an unlawful assembly, obstructed traffic and protested against the speech made by one of the political leaders and thus committed the aforesaid offences.

3. The learned counsel for the petitioners would submit that the gist of the allegations against the petitioners is that they had formed an unlawful assembly, obstructed traffic and protested against the speech made by one of the political leaders; that even if the allegations are accepted to be true, they would only constitute the offence under Section 188 of the Indian Penal Code, 1860, besides Section 186 of the Indian Penal Code, 1860 for obstructing a public servant in the discharge of his



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public functions; and that their right to protest cannot be termed as causing wrongful restraint or unlawful assembly, and therefore, the impugned prosecution is liable to be quashed. He would rely upon the judgment of this Court in ***Jeevanandham and others vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another***, reported in ***2018-2-L.W.(Crl.) 606***.

4. The learned Government Advocate (Criminal Side) for the first respondent would reiterate the allegations in the final report and submit that, in violation of the order passed under Section 144 of the Code of Criminal Procedure, 1973, the petitioners assembled in a public place and indulged in an illegal protest, and therefore, the aforesaid offences are made out, and sought for dismissal of this petition.

5. As stated earlier, the only allegations against the petitioners are that they had protested against a statement made by a political leader in a public place and that they had violated the order passed by a public servant.



6. As regards the offences under Sections 341 and 143 of the Indian Penal Code, 1860, 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 offences under Sections 143 and 188 of the Indian Penal Code, this Court had held as follows:

“26. Crl.O.P.(MD).Nos. 11834, 15529, 15644, 15621, 16244, 16208, 16075 of 2018

In all these cases, it is seen that a Final Report has been filed for an Offence under Section 188 and 143 of IPC and cognizance has also been taken by the concerned Judicial Magistrates. In view of the above discussion, the cognizance of the Final Report under Section 188 of IPC is liable to be quashed. Insofar as the offence under Section 143 of IPC is concerned, in all the cases, 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



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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 all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a 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.

2. Therefore, the Final Report for an offence under Section 143 of IPC is hereby quashed. Accordingly, all the Criminal Original petitions are allowed, and the Final Report filed in each of the case is hereby quashed.”

Therefore, the offences under Sections 143 and 341 of the Indian Penal Code, 1860 would not be made out.

7. This Court is of the view that, even assuming that the allegations are accepted to be true, none of the other offences alleged by the prosecution. For such offences, it is needless to state that it is for the public servant to lodge a complaint and the police have no jurisdiction to register the FIR and file the final report. Therefore, the impugned prosecution is liable to be quashed, and is accordingly quashed.



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WEB COPY 8. Thus, this Criminal Original Petition is allowed. Consequently,
the connected Miscellaneous Petitions are closed.

18.11.2025

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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TO

1. The Judicial Magistrate,
Theni
2. The Inspector of Police,
Theni Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN,J

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