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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl. O.P(MD) No. 21480 of 2025
and
Crl.MP(MD)Nos.18486 & 18488 of 2025

Murugaiah

... Petitioner/Accused No.3

Vs

1.State of Tamil Nadu rep by its,
The Inspector of Police,
Puliyarai Police Station,
Tenkasi District.

... Respondent/Complainant

2.Sanjay Gandhi,
Sub Inspector of Police,
Puliyarai Police Station,
Tankasi District.

... Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the entire records pertaining to the case in S.T.C.No.1462 of 2025 on the file of the learned Judicial Magistrate, Sengottai, Tenkasi District, and quash the same as against the petitioner.



For petitioner : Mr.R.Yeswanth
For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed to quash the proceedings in S.T.C.No.1462 of 2025 on the file of the learned Judicial Magistrate, Sengottai, Tenkasi District.

2. The brief facts leading to the filing of this petition are as follows:

2.1. On 13.02.2023 at about 10.00 p.m., along the Kollam to Thirumangalam Road near R.T.O Checkpost, a group of approximately 68 persons, including the Petitioners, staged a road blockade. While doing so, they raised slogans protesting the alleged illegal transportation of mines and minerals to Kerala state without permission from the Tamil Nadu Government. Their demand was that such activities should cease immediately. The protest resulted in causing a public nuisance and obstruction to free movement of traffic, thereby causing hardship to the public, which led to a complaint by the 2nd Respondent.



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2.2. The first respondent police registered a case in Crime No.15 of 2023 for the alleged offences under Sections 190 & 292 of the Bharatiya Nyaya Sanhita, 2023, corresponding to Sections 143 and 290 of the Indian Penal Code. A total of 68 persons have been named as accused in the said crime number. The petitioner herein is arrayed as Accused No.33 in the said FIR.

2.3. After completion of the investigation, a final report was filed before the learned Judicial Magistrate, Sengottai, Tenkasi District, and the same was taken cognizance of in S.T.C. No.1462 of 2025. Challenging the same, this petition has been filed.

3. The learned counsel for the petitioner contends that no specific overt act has been attributed to him either in the FIR, the statements of witnesses, or in the final report. It is submitted that except for him name being included among several others, there is no allegation identifying any unlawful act committed by him so as to attract the offences alleged.



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4. The learned counsel for the petitioner submitted that for attracting the offence under Section 143 IPC, the prosecution must show *prima facie* that it is an unlawful assembly as defined under Section 141 IPC. Section 141 IPC defines '*unlawful assembly*' in the following words:-

“ 141.Unlawful assembly – An assembly of five or more persons is designated and 'unlawful assembly', if the common object of the persons composing that assembly is -

***First** – To overawe by criminal force, or show of criminal force, (the Central or any State Government or Parliament or the Legislature of any State), or any public servant in the exercise of the lawful power of such public servant; or*

***Second** – To resist the execution of any law, or of any legal process; or*

***Third** – To commit any mischief or criminal trespass, or other offence; or*

***Foruth** – By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or*



Fifth – *By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.*

Explanation – *An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.”*

4.1. So, from the above observation, the assembly cannot be termed as unlawful one. There is also no material collected in the course of investigation, to the effect that the ban order under Section 32 of Police Act, was also in force. So, none of the ingredients are attracted.

5. He further submitted that insofar as the Section 290 IPC is concerned, it is defined as follows:

“290. Punishment for public nuisance in cases not otherwise provided for – Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.”

5.1. But, it is a non-cognizable offence. The Police registered a case and filed a final report without getting permission of the learned Judicial Magistrate concerned.



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6. The learned counsel for the petitioner would further submit that the final report merely contains vague and omnibus allegations and none of the prosecution witnesses have made any specific statement regarding the participation of the petitioner in the alleged offences. Hence, the continuance of criminal prosecution against the petitioner amounts to abuse of process of law.

7. Per contra, the learned Government Advocate would submit that the petitioner was one among the group of persons who participated in the protest and therefore, the charge sheet ought not to be interfered with at the threshold.

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

Points for Consideration:

9. *Whether the materials placed by the prosecution disclose any specific act or ingredient constituting an offence against the petitioner so as to justify continuation of proceedings in S.T.C.No.1462 of 2025?*



Analysis:

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10. A perusal of the FIR, the statements recorded under Section 161 Cr.P.C., 1973, and the final report reveals that the petitioner has not been attributed with any specific overt act. The inclusion of his name appears only as part of a large assembly of persons. No witness has spoken about the petitioner's alleged participation or the petitioner indulged in violence, caused disturbance, annoyance or obstruction to any public authority or to the general public. Therefore, the essential ingredients of Sections 143 and 290 IPC are not disclosed.

11. The Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*, has held that where the uncontroverted allegations do not disclose the commission of an offence or where the allegations are absurd or inherently improbable, the FIR or charge sheet may be quashed under Section 482 Cr.P.C., 1973.

12. In the present case, the imputation against the petitioner is vague, general and unsupported by any material. Even if the entire charge sheet is accepted as true, no offence under Sections 143 & 290 of IPC is made out against him.



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13. The prosecution against the petitioner, therefore, is nothing but a mechanical roping in of a large number of persons without any material to show his involvement. Continuation of such proceedings would amount to a clear abuse of process of court.

14. This Court is therefore satisfied that the ingredients laid down by the Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal*¹ stand fully attracted, warranting interference.

15. For the foregoing reasons, this Court holds that the continuation of proceedings in S.T.C. No.1462 of 2025 as against the petitioner is unwarranted, unsustainable and liable to be quashed.

16. This Criminal Original Petition is allowed. The proceedings in S.T.C. No.1462 of 2025 on the file of the learned Judicial Magistrate, Sengottai, Tenkasi District, are quashed in so far as the petitioner (A33) is concerned. Consequently, connected miscellaneous petitions are closed.

04.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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¹ 1992 Supp (1) SCC 335



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To

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



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L.VICTORIA GOWRI,J

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