



CRL OP(MD)No.21276 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :25.11.2025

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL OP(MD). No.21276 of 2025

and

CrI.M.P.(MD)No.18255 of 2025

1.Kani @ Muthuraj

2.Mani

... Petitioners

Vs

1.The State of Tamilnadu Rep by,
The Inspector of Police,
Keela Paralachi Police Station,
Virudhunagar District,
(Crime No.45 of 2022)

2.S.Suriyakumar

... Respondents

PRAYER :- Criminal Original Petition is filed under Section 528 of BNSS, to call for the records pertaining to the impugned charged sheet in S.T.C.No.367 of 2025 on the file of the Judicial Magistrate Court, Aruppukottai, insofar as the petitioners/Accused Nos.6 and 9 is concerned and quash the same.



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For Petitioners : Mr.J.Vishnu

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

ORDER

This Criminal Original Petition has been filed to quash the impugned final report in S.T.C.No.367 of 2025 on the file of the Judicial Magistrate Court, Aruppukottai, which was filed for the offences under Section 143, 188 and 353 of IPC.

2.The allegation in the final report is that when the Village Assistant attempted to remove a flagpole erected for a political party, which was allegedly fixed by the petitioners and other, they obstructed the Village Administrative Officer and prevented him from discharging his duty and thus committed the aforesaid offences.

3.The learned counsel for the petitioners would submit that the offence under Section 143 of IPC would not be made out as the petitioners only conducted a peaceful protest. He would rely upon the judgment of this Court in the case of **Jeevanandham and others vs.**



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State rep. by Inspector of Police, Velayuthampalayam Police Station,

Karur District and another, reported in **2018 SCC OnLine Mad**

13698 in support of his submissions. Further he would submit that the respondents have no jurisdiction to register a case for the offence under Section 188 of IPC, for which, the public servant has to file a private complaint before the concerned Magistrate. Further, even as per the allegation made in the impugned final report, there is no allegation of criminal force or assault and hence, the offence under Section 353 of IPC would not be made out.

4.Heard the learned Additional Public Prosecutor appearing for the first respondent.

5.As regards the offence under Section 143 of the Indian Penal Code, it is seen that the charge sheet does not state as to how the protest by the petitioners attracted the offence of unlawful assembly. A mere protest by a group of people would not amount to unlawful assembly.



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6.As regards the offence under Section 188 of the Indian Penal Code the first respondent / police has no jurisdiction to file a final report for the offence under Section 188 of the Indian Penal Code in view of the bar under Section 195 (1)(a)(i) of the Criminal Procedure Code as per which only the public servant concerned can file a complaint.

7.As regards the offence under Section 353 of the Indian Penal Code, this Court finds that there are no allegations in the charge sheet suggesting that the petitioners had assaulted or used any criminal force on any public servant. Hence, the offence under Section 353 of the Indian Penal Code also is not made out.

8. For the above reasons, the act of the petitioners in protesting does not attract any of the offences alleged and hence, the impugned charge sheet in S.T.C.No.367 of 2025 on the file of the learned Judicial Magistrate, Aruppukottai, is quashed.

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



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Index :Yes/No

Internet :Yes

NCC :Yes/No

cp/ars

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To

- 1.The Judicial Magistrate,
Aruppukottai.
- 2.The Inspector of Police,
Keela Paralachi Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN,J

CP/ars

ORDER IN
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