



Crl.O.P.(MD)No.21377 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **05.12.2025**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

Crl.O.P.(MD)No.21377 of 2025

and

Crl.M.P.(MD).No.18351 of 2025

1.Santhosh Kumar

2.Mathavan

3.Karthickraja

4.Ramana

... Petitioners

Vs.

1.The State Rep. by,

The Inspector of Police,

Manamadurai Police Station,

Sivagangai District.

(in Crime No.489 of 2023)

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the proceedings in S.T.C.No.21 of 2024 on the file of the learned Judicial Magistrate Court Manamadurai, Sivagangai District and quash the same.



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For Petitioners : Mr.R.Balamuruganatham
For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

This criminal original petition has been filed to quash the proceedings in S.T.C.No.21 of 2024 on the file of the learned Judicial Magistrate Court Manamadurai, Sivagangai District, which was filed for the offences under Section 291 of IPC.

2.The case of the prosecution is that on 28.10.2023, at about 13.00 hours, while the de facto complainant was on duty, he found that the petitioners were jointly causing nuisance by uttering obscene words. Despite official intervention, they continued the same, and hence they were caught red-handed, pursuant to which the FIR came to be registered. After completion of investigation, the respondent police filed a final report and the same was taken on file in S.T.C.No.21 of 2024 by the learned Judicial Magistrate Court, Manamadurai, Sivagangai District.



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3.The learned counsel appearing for the petitioners submitted that the petitioners are young men pursuing various coaching classes for competitive examinations. He further submitted that all the petitioners belong to the same village and have been unnecessarily roped into the criminal proceedings, which were registered merely for statistical purposes, thereby causing great inconvenience and hardship to the petitioners, who are aspiring youngsters diligently pursuing their studies for competitive examinations. It was further submitted that a careful reading of the charge sheet itself would reveal that it is bereft of any specific details regarding the alleged obscenity or the obscene words purportedly uttered by the petitioners. Hence, the charge sheet is liable to be quashed, and the learned counsel prayed for allowing the criminal original petition.

4.Per contra, the learned Additional Public Prosecutor, on instructions, submitted that the petitioners were continuously indulging in creating nuisance to the general public at a public junction despite repeated warnings. Even after intervention by the local police, more particularly the second respondent, they continued to cause public nuisance. Hence, there is no infirmity in the charge sheet, and the learned Additional Public Prosecutor prayed for dismissal of the criminal original petition.



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5.Heard the learned counsel on either side and perused the materials available on records.

6.Section 268 of the Indian Penal Code defines public nuisance and the same is extracted as follows:

268. Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right. A common nuisance is not excused on the ground that it causes some convenience or advantage.

7.However, in the case on hand, the charge framed against the petitioners herein is under Section 291 of the IPC, corresponding to Section 293 of the Bharatiya Nyaya Sanhita, which deals with the continuance of nuisance after an injunction to discontinue the same, and the provision is extracted as follows:

291. Continuance of nuisance after injunction to discontinue.—Whoever repeats or continues a public nuisance, having been enjoined by any public servant who



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has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

8.A careful perusal of the said provisions would make it clear that the offence of continuous public nuisance, as contemplated under Section 268, has to be read in conjunction with Section 291 of the IPC. It could be understood that a person is guilty of public nuisance if he does any act or is guilty of an illegal omission which causes common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury. In the instant case, the complaint is a suo motu complaint by the respondent police, and it is evident that no one either from the vicinity or among the general public had lodged any complaint in respect of the allegations made in the charge sheet. A similar matter has been dealt with by this Court in Crl.O.P.(MD).No.16135 of 2021, dated 09.11.2021, the relevant portion is extracted hereunder:

8.A formal proceeding from the competent authority must have been issued between the first commission of the act of public nuisance and its repetition. In the case on hand, there has been no such issuance of formal proceeding against the petitioners. The statement by the informant



police that the accused did not pay heed to their instruction will not constitute an offence under Section 291 of IPC. The act of committing public nuisance by itself is a non-cognizable offence. For it to become a cognizable offence, a further element is required and that is enjoining by the competent public servant to the person concerned to desist from indulging in the act and the person to whom the directive has been issued must defy the same and repeat the act of public nuisance. Then and then alone Section 291 of IPC will get attracted and not otherwise. In the case on hand, the conditions precedent for invoking Section 291 of IPC are wholly absent.

9.What cannot be done directly cannot be done indirectly also. This doctrine is based upon the Latin maxim “Quando aliquid prohibetur ex directo, prohibetur et per obliquum”. This principle can be applied to criminal law also. The respondent police could not have registered a case under Section 290 of IPC on their own against the petitioners. In order to overcome the statutory bar created by Section 155 of Cr.Pc, the police invoked Section 291 of IPC.

9.Fortified by the aforesaid judgment, this Court is of the considered view that, for an offence under Section 291 of the IPC, a formal proceeding / injunction issued by the respondent police directing the person to discontinue the public nuisance is a *sine qua non*. Such an injunction should precede the



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alleged continuance of the offence. However, in the instant case, the charge sheet does not specify the details relating to the initial commission of the alleged public nuisance, nor does it disclose the particulars of any injunction issued by the second respondent, or the manner in which such injunction was allegedly violated by the accused. In view of the same, the offence as defined under Section 291 of the IPC is not made out. Hence, the impugned proceeding is liable to be quashed.

10. Accordingly, this Criminal Original Petition stands allowed. The impugned proceedings in S.T.C.No.21 of 2024 on the file of the learned Judicial Magistrate Court, Manamadurai, Sivagangai District, is hereby quashed. Consequently, the connected Criminal Miscellaneous Petition is closed.

05.12.2025

NCC : Yes / No

Index : Yes / No

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WEB COPY **TO:-**

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



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L.VICTORIA GOWRI, J.

vsg

Order made in
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Dated
05.12.2025