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CrI.O.P.No.429 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2026

CORAM:

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.429 of 2026

and

CrI.M.P.No.251 of 2026

C.Ve.Shanmugam

... Petitioner

-Vs-

State Rep.by,
The Inspector of Police,
Villupuram Taluk Police Station,
Villupuram District.
Cr.No.865 of 2024.

... Respondent

Prayer : Criminal Original Petition filed under Section 528 of B.N.S.S, to call for the records and quash the proceedings as against the Petitioner in Cr.No.865 of 2024 pending on the file of the respondent police.

For Petitioner : Mr.M.Mohamed Riyaz

For Respondent : Mr.K.M.D.Muhilan
Additional Public Prosecutor

ORDER

The present Criminal Original Petition has been filed seeking to quash the proceedings in Crime No.865 of 2024, pending on the file of the respondent Police.



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2. The case of the prosecution is that on 25.10.2024, the petitioner and others, who belong to a political party, without obtaining prior permission, had unlawfully conducted a protest, thereby causing disturbance to the public. Therefore, a case in Crime No.865 of 2024 was registered by the respondent Police under Section 172 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a sitting Member of Parliament (M.P.) from the AIADMK party. He further submitted that the petitioner was engaged in a peaceful *dharna* with supporters, which the respondent-police termed unauthorized. He further submitted that Section 172 of the BNSS, only enables preventive detention for a period of not exceeding 24 hours subject to the condition that if the police officer has come to know that the persons to be detained under the said provision have design to commit any cognizable offences and arresting them after obtaining necessary orders from the Magistrate under warrant is not feasible. Inasmuch as Section 172 of BNSS, 2023 is not a penal provision, no case can be registered and consequently, on the expiry of 24 hours, the proceeding dies on its own.



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4. He further submitted that when there is a criminal proceedings going to be initiated against persons who resort to peaceful protest, then, such criminal proceedings have to be interfered with by the Court in exercise of its jurisdiction under Section 528 of BNSS, 2023. In this case, the petitioner has agitated against the inaction of the police in not taking any action on the complaint given by the petitioner and in such circumstances, further proceedings would constitute an abuse of process of law. In support of his contention, the learned counsel for the petitioner relied on the decision of this Court in *Yasar Arafath Vs. The State rep., by the Sub Inspector of Police (Crl.O.P.No.16522 of 2022* decided on *19.07.2022*).

5. Per contra, the learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner, without obtaining prior permission, conducted a protest causing disturbance to the public and therefore, the respondent police registered a case under Section 172 of BNSS, 2023.

6. Heard the learned counsel appearing on either side and perused the materials available on record.



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7. As rightly pointed out in CrI.O.P.No.16522 of 2022, Yasar Arafath supra, it has been held as under:

“5.As rightly argued, this provision only enables preventive detention for a period of not exceeding 24 hours subject to the condition that if the Police Officer has come to know that the persons to be detained under the said provision have design to commit any cognizable offences, and arresting them after obtaining necessary orders from the Magistrate under warrant is not feasible.

6.Inasmuch as Section 151 Cr.P.C., is not a penal provision, no case can be registered. Secondly on the expiry of 24 hours the proceeding dies on its own.”

In the case on hand, the petitioner has only conducted a demonstration/protest against the inaction of the police and no untoward incident had occurred.

8. In view of the above, when Section 172 of BNSS, 2023 is not a penal provision, no case can be registered by the police and further, on the expiry of 24 hours, the proceeding dies on its own. In such view of the matter, no useful purpose will be served by keeping the impugned FIR pending and it is therefore liable to be quashed.



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9. Accordingly, the Criminal Original Petition stands allowed and the proceedings pursuant to the First Information Report in Crime No.865 of 2024, on the file of the respondent Police is hereby quashed in entirety. Consequently, the connected miscellaneous petition is closed.

22.01.2026

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

rpl

To

1. The Inspector of Police,
Villupuram Taluk Police Station,
Villupuram District.
2. The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA . J,

rpl

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