



Crl.O.P.No.2939 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2026

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.2939 of 2026
and Crl.M.P.No.2015 of 2026

1. Abdul Samad
2. Mukthiyar @ Mukthiyar Ahmed
3. Athikur Rahman @ Atheequr Rahman
4. Riyas Ahmed @ Riyaz Ahmed ... Petitioners

Vs.

The State represented by,
The Sub-Inspector of Police,
Pernampet Police Station,
Vellore District.

(Crime No.18 of 2025)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 Cr.P.C., to call for the records in Crime No.18 of 2025 dated 19.01.2025, on the file of the respondent police and quash the same.

For Petitioners : Mr.A.Rajamohamed

For Respondent : Mr.S.Santhosh
Government Advocate (Criminal Side)
Assisted by Mr.M.S.Rajkumar



ORDER

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The present Criminal Original Petition has been filed seeking to quash the First Information Report in Crime No.18 of 2025, pending against the petitioners on the file of the respondent police.

2. The case of the prosecution is that on 18.01.2025, the petitioners, who belong to a political party, along with 100 other persons, unlawfully assembled before the respondent police station and staged a protest in connection with the alleged failure to register a case against certain persons in an issue concerning street vendors. It is further alleged that they prevented a Grade-I Police Constable from discharging his official duties. Therefore, based on the complaint lodged by the said Grade-I Police Constable, who was on duty, the aforesaid case in Crime No.18 of 2025 was registered on 19.01.2025 for the offences under Sections 189(2) and 132 of the BNS (Corresponding to Sections 142 & 353 of IPC), which is now sought to be quashed.

3. The learned counsel appearing for the petitioners submitted that there is no specific role against the petitioners and other than conducting protest in a democratic manner, the petitioners have not indulged in any act of violence. He further submitted that even taking into consideration the entire averments in the First Information Report at their



face value, the ingredients of the alleged offences under Sections 189(2) and 132 of the BNS cannot be made out against the petitioners. Hence, he prayed to quash the impugned First Information Report against the petitioners.

4. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent Police submitted that the petitioners, along with other accused, unlawfully assembled and created a ruckus in front of the respondent police station and prevented the Grade-I Police Constable from discharging his official duties. He further submitted that the investigation in this case is still pending.

5. Heard both sides and perused the materials available on record.

6. It is to be noted that while exercising the power under Section 482 Cr.P.C., the Court should be slow. At the same time, if the Court finds that the entire materials collected by the prosecution, taken as a whole, would not constitute any offence, in such a situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons.



7. In this context, it is relevant to note the definition of the expression “Unlawful Assembly” in Section 189 of the BNS which reads as under:-

“Unlawful Assembly- (1) An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is -

(a) 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

(b) to resist the execution of any law, or of any legal process; or

(c) to commit any mischief or criminal trespass, or other offence; or

(d) 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

(e) 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.”

8. Further, Section 132 of the BNS defines the expression “assault or criminal force to deter public servant from discharge of his duty” as under:-

“Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted



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to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment or either description for a term which may extend to two years, or with fine, or with both.”

9. In this regard, it is also equally relevant to extract Section 130 of the BNS, which defines “Assault” as under:-

“Assault – Whoever makes any gesture, or any preparation intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

10. In the case on hand, the petitioners/accused have not indulged in any act of violence or any unlawful activity. Only when the assembly falls within any of the above circumstances, it could be construed as “unlawful”. The materials collected by the prosecution do not show that the petitioners/accused had used any criminal force, to commit mischief, crime or any offence or by way of criminal force attempted to take possession of any property or right to use of incorporeal right which is in possession of enjoyment of others.

11. Coming to the offence under Section 132 of the BNS (corresponding to Section 353 IPC), in **Manik Taneja vs. State of Karnataka (2015) 7 SCC 423**, while dealing with the said offence, the



Hon'ble Supreme Court has held that the person accused of the said offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. The relevant portion of the said judgment reads thus:

“10.:

“353.Assault or criminal force to deter public servant from discharge of his duty.—Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.”

A reading of the above provision shows that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as such public servant. By perusing the materials available on record, it appears that no force was used by the appellants to commit such an offence. There is absolutely nothing on record to show that the appellants either assaulted the respondents or used criminal force to prevent the second respondent from discharging his official duty. Taking the uncontroverted allegations, in our view, the ingredients of the offence under Section 353 IPC are not made out.”

(emphasis supplied by this Court)

In the case on hand as well, other than showing their protest in a democratic manner for non-registration of a case, the petitioners have not indulged in any act of violence and there is nothing on record to suggest that the petitioners either assaulted the police personnel or used criminal force to prevent them from discharging their duty.



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12. Taking all these aspects into account, this Court is of the opinion that no useful purpose would be served by keeping the criminal proceedings pending against the petitioners and the same is liable to be quashed. Further, though this petition has been filed by the petitioners alone, continuation of the proceedings against the remaining accused, who are all similarly placed, is an abuse of process of law.

13. In such view of the matter, the impugned First Information Report registered in Crime No.18 of 2025 on the file of the respondent police is hereby quashed in its entirety.

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

09.02.2026

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Neutral Citation: Yes/No

To

1. The Sub-Inspector of Police,
Pernampet Police Station,
Vellore District.
2. The Public Prosecutor,
High Court of Madras.

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A.D.JAGADISH CHANDIRA, J.

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