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CRL OP No. 8348 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-04-2026

CORAM

THE HON'BLE MR JUSTICE M. NIRMAL KUMAR

CRL OP No. 8348 of 2026 &

CrI.M.P.Nos.5921 & 5923 of 2026

Gokulakirishnan.D
S/o. Dhanasuraman,
No.63, 7th Street,
Siruvathur and Post,
Cuddalore - 607 106.

..Petitioner(s)

Vs

State Rep.by, The Inspector of Police,
Pudupettai Police Station,
Cuddalore District.
Charge Sheet No.129 of 2024.
Cr.No.26 of 2024.

..Respondent(s)

Prayer : Criminal Original Petition filed under section 528 of BNSS to call for the records relating to STC.No.408 of 2024 in Charge Sheet No.FR-129 of 2024 in Cr.No.26 of 2024 dated 02.02.2024 on the file of the learned Judicial Magistrate II, Panruti, herein and quash the same.

For Petitioner(s): Mr.R.Kaandeeban

For Respondent(s): M/S. LEONARD ARUL JOSEPH SELVAM
ADDITIONAL PP



ORDER

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The petitioner, who is A5, facing trial in STC.No.408 of 2024 before the learned Judicial Magistrate No.II, Panruti for offence under Sections 143, 188 and 341 of IPC, has filed the Quash Petition.

2.Gist of the case is that the petitioner along with other accused who belonged to Viduthalai Chiruthai Katchi assembled in Ankuchettipalayam bus stop and road blockade on Panruti Selam Road for tearing unknown person VCK digital banner of Tiruchi party conference and that the banner was placed without permission and caused obstruction to the general public and vehicular traffic. Despite the respondent Police asked the protesters to disperse, they failed to do so. Hence, the respondent Police arrested the protesters, registered FIR in Crime No.26 of 2024 for offences under Sections 143, 188 and 341 IPC. On completion of investigation, charge sheet filed before the trial Court listing LW1 to LW4 and documents and STC.No.408 of 2024 assigned.

3.The contention of the petitioner is that in this case, all the witnesses are public servants and no private person was examined and cited as witness during investigation. The case of the prosecution is that the petitioners assembled in Ankuchettipalayam bus stop and road blockade on Panruti Selam Road for



tearing unknown person VCK digital banner of Tiruchi party conference and caused obstruction to the general public and vehicular traffic. It is highly improbable that no public witness was present in the place of occurrence and no reason has been given for non examination of public witnesses. In this case, the FIR was registered for offences under Sections 143, 188 and 341 of IPC. As per Section 188 IPC, only the public servant is authorized to lodge a complaint and Section 195 Cr.P.C is clear embargo as to how a complaint to be registered and investigated by the Police for offence under Section 188 IPC. In this case, there is no complaint from the public servant. Hence, the registration of the FIR is void *ab initio* and continuing the investigation for other offences is also not permitted.

4. The learned counsel for the petitioner submitted that this Court in catena of judgments have clearly held that the police personnel are not empowered to register an FIR under Section 188 IPC. There is nothing to show that on the date of occurrence, there was any prohibitory order in force and whether that order was communicated in the prescribed manner is also not known. The learned counsel further submitted that this Court in the cases of ***“Madhan Mohan Versus The State and another in Crl.O.P.Nos.23129 & 23127 of 2019”*** on the similar grounds, quashed the proceedings against the accused. Further, in the case of ***“Jeevanandham and others Vs. State Rep. by Inspector of Police and another*** reported in ***(2018) 2 LW Crl. 606***”, had given



an authoritative pronouncement regarding the cases to be registered and investigated under Section 188 IPC and also issued certain guidelines, which is violated in this case

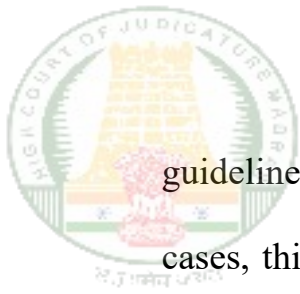
5.The learned counsel for the petitioner further submitted that the petitioner is not at all in the place of occurrence and he has been wantonly implicated in the charge sheet and his name is not in the First Information Report. The allegations in the charge sheet does not constitute a prima facie offence or make out a case against the petitioner. Hence, he prayed for quashing of the proceedings against the petitioner.

6.The learned Additional Public Prosecutor appearing for the respondents submitted that in this case, the petitioner along with other accused assembled together Ankuchettipalayam bus stop and road blockade on Panruti Selam Road for tearing unknown person VCK digital banner of Tiruchi party conference and caused obstruction to the general public and vehicular traffic without any permission. Timely intervention of the respondents further law and problem were averted. The petitioner along with other accused without getting permission from the authorities concerned have formed themselves into an unlawful assembly restrained others and caused public disturbance. On completion of investigation, charge sheet has been filed in this case.



7. Considering the rival submissions and on perusal of the materials, it is seen that the accused had only assembled in Ankuchettipalayam bus stop and road blockade on Panruti Selam Road for tearing unknown person VCK digital banner of Tiruchi party conference and caused obstruction to the general public and vehicular traffic.

8. From the statement of the witnesses, it is seen that LW1 to LW4 present in the scene of occurrence and according to them, the petitioner along with other other accused had assembled in Ankuchettipalayam bus stop and road blockade on Panruti Selam Road for tearing unknown person VCK digital banner of Tiruchi party conference and caused obstruction to the general public and vehicular traffic. Admittedly in this case, the occurrence had taken place in the public place and view, no public or independent witness examined by the prosecution, which causes serious doubt on the veracity of the complaint. Further, this Court in the case of “*Jeevanandham and others Vs. State Rep. by Inspector of Police and another*” reported in (2018) 2 LW CrL. 606” had clearly held that the police officials are not empowered to register a case under Section 188 IPC and the same is barred under Section 195 Cr.P.C. There is no material to show that there was any promulgation of any prohibitory order which was communicated to the public and there was any disobedience by the petitioner. Further, in consequence to the protest, the prosecution failed to show whether any trouble or injuries occurred. Thus, the respondent Police did not follow the



guidelines issued by this Court in *Jeevanandham (Cited Supra)*. In several cases, this Court quashes the proceedings against the accused/protesters on the similar ground, holding it is one form of democratic right.

9. In the result, the proceedings in STC.No.408 of 2024 on the file of the Judicial Magistrate No.II, Panruti is hereby quashed against the petitioner. This Criminal Original Petition is allowed accordingly.

06-04-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vrc

To

1. The Judicial Magistrate No.II,
Panruti..
2. The Inspector of Police,
Pudupettai Police Station,
Cuddalore District.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

VRC

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