



Crl.O.P. NO. 9701 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.04.2026

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THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P. No. 9701 of 2026

&

Crl.M.P. No. 6905 of 2026

Ramesh

..Petitioner

Vs.

The Inspector of Police (L &O),
M-1, Madhavaram Police Station,
Madhavaram,
Chennai.
Cr.No. 1196 of 2024.

..Respondent

Prayer: Criminal Original Petition filed under Section 528 of BNSS to call for the records in respect of FIR in Cr. No. 1196 of 2024 dated 30.12.2024 on the file of the respondent herein and quash the same.

For Petitioner :: Mr.A. Thirumaran

For Respondent :: Mr.R. Vinothraja,
Govt. Advocate (Crl.Side)



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ORDER

This Criminal Original Petition has been filed to quash the proceedings in respect of FIR in Crime No.1196 of 2024 on the file of the respondent herein.

2. The case of the prosecution is that on 30.12.2024, the respondent herein received information that a huge demonstration was being conducted without permission near Madhavaram Municipality. About 309 persons including the petitioner had participated in the said demonstration, which was conducted demanding action against those responsible for the sexual assault on one of the students of Anna University. Though the demonstrators were warned and directed to disperse, they did not oblige and continued with their demonstration, raised slogans and thereby caused traffic disruption and disturbance to the public. Hence, a case was registered against the petitioner and others in Crime No.1196 of 2024 for the alleged offences under Sections 189(2) and 223 of BNSS (equivalent to Sections 142 & 188 IPC respectively).



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3. The learned counsel appearing for the petitioner submitted that the Hon'ble Supreme Court of India has held that the right to assemble and right to freely express one's view are constitutionally protected rights under Part III and their rights can be restricted only in proportional manner through a fair and non-arbitrary procedure provided in Article 19 of Constitution of India. He further submitted that it is the duty of the Government to protect the right to freedom of speech and assemble, essential to a Democracy. According to Section 195(1)(a) Cr.P.C., no Court can take cognizance of an offence under Section 188 of IPC, unless the public servant issued a written order. Further he submitted that the petitioner or any other member never involved in any unlawful assembly and there is no evidence that there was any riot or incitement at the instance of the petitioner and others. At best, the contents of the FIR would reveal only an expression of dissent in connection to an incident, which had caused huge uproar in the State. In this case, the FIR in Crime No.1196 of 2024 was registered for the offence under Section 188 IPC as well. As per Section 188 IPC, only the public servant, whose order was disobeyed, is authorized to lodge a complaint and Section 195 Cr.P.C is a clear embargo for a complaint



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to be registered and investigated by the Police for the offence under Section 188 IPC. That being so, the registration of the FIR for the offence under Section 188 IPC is void *ab initio* and continuing the investigation for the other offence is also not permitted.

4. The learned counsel for the petitioner submitted that this Court in a catena of judgments has clearly held that 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 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”, an authoritative pronouncement has been given regarding the cases to be registered and investigated under Section 188 IPC and certain guidelines have also been issued, which have been violated in this case



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5. The learned counsel for the petitioner further submitted that the petitioner and others raised slogans and held demonstration against the Government demanding action against the culprits involved in the sexual assault of a student, which cannot be construed as an unlawful act. Right to Protest is the Hallmark of Democracy. The petitioner along with others only expressed his displeasure which is his fundamental right. Hence, he prayed for quashing of the FIR against the petitioner.

6. The learned Government Advocate (Crl.Side) submitted that the respondent Police received information that a huge demonstration was conducted without permission near Madhavaram Municipality and the petitioner along with others, without getting permission from the authorities concerned, formed themselves into an unlawful assembly, conducted demonstration, raised slogans and caused public disturbance. Due to the timely intervention by the respondent Police, further law and order problem was averted. He would submit that Section 188 of IPC is a cognizable offence and therefore it is the duty of the police to register a case. Though there is a bar under Section 195(1)(a)(i) of Cr.P.C. to take cognizance for the offence under Section 188 of IPC, it does not mean that the police cannot



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register FIR and investigate the case. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

7. Considering the rival submissions and on perusal of the materials, this Court finds that the petitioner along with others had raised slogans only to show his displeasure. Raising slogans against the Government itself would not amount to any commission of offence, which is a fundamental right under Constitution of India. 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 injuries occurred. Thus, the respondent Police did not follow the guidelines issued by this Court in *Jeevanandham (Cited Supra)*. In several cases, this Court had quashed the proceedings against the accused/protesters on similar ground. Further, the complaint does not even



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state as to how the protest formed by the petitioner and others is an unlawful protest and does not satisfy the requirements of Section 142 of IPC. Therefore, the FIR cannot be sustained and it is liable to be quashed. .

8. In the result, the proceedings in Crime No. 1196 of 2024 on the file of The Inspector of Police (L &O), M-1, Madhavaram Police Station, Madhavaram, Chennai. is hereby quashed against the petitioner. This Criminal Original Petition is allowed accordingly. Consequently, the connected Criminal Miscellaneous Petition is closed.

17.04.2026

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To

The Inspector of Police (L &O),
M-1, Madhavaram Police Station,
Madhavaram,
Chennai.



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M.NIRMAL KUMAR, J.

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