



Crl.O.P.(MD)No.1654 of 2026

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **29.01.2026**

CORAM:

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

Crl.O.P.(MD)No.1654 of 2026
& Crl.M.P.(MD)No.1840 of 2026

1.Kailasam
2.Pandi durai

... Petitioners

Vs.

1. The State of Tamilnadu
Rep by Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
Crime No.305/2025

... Respondent

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records in Crime No. 305 of 2025 on the file of the respondent police and quash the same.

For Petitioners : Mr.GR.Balakumar

For Respondent : Mr.B.Thanga Aravindh (R1)
Government Advocate (Crl.Side)



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ORDER

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The petitioners seek for quash of the FIR in Crime No.305 of 2025, dated 04.12.2025 on the file of the respondent police.

2. The case of the prosecution, as reflected in the First Information Report is that the petitioners and other accused were protesting unlawfully without obtaining any prior permission from the respondent police, thereby causing nuisance for the general public. On the basis of the complaint given by the second respondent, the respondent police registered a case in Crime No.305 of 2025 for the alleged offences under Sections 189(2) and 126(2) of BNS, 2023.

3. The learned counsel for the petitioners contended that the impugned FIR suffers from fundamental illegality and does not disclose the commission of any cognizable offence and that the learned counsel for the petitioners submitted that the campaign was conducted peacefully and that right of expression is a constitutionally guaranteed right under Article 19(1)(a) of the Constitution of India. It is their case that expressing one's views in a democratic nation cannot be criminalised, unless the act satisfies the ingredients of a penal provision.



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4. The learned counsel for the petitioners further submitted that the FIR does not contain any specific overt act attributable to any of the petitioners. The complaint does not disclose an unlawful assembly. The FIR has been registered on 04.12.2025 and till now it has not been sent to Judicial Magistrate for further process. Therefore, the essential ingredients of Sections 189(2) of BNS is not maintainable.

5. Further the learned counsel for the petitioners submitted that (i) since no public was affected; (ii) no intention of causing danger to the public or (iii) obstruction to the public, the offence under Section 126(2) of BNS would not attract.

6. It is further argued that the allegations in the FIR are vague, sweeping and intended only to portray a peaceful assembly as illegal. Criminal law cannot be invoked to curtail peaceful expression, which is the bedrock of democratic governance.

7. Per contra, the learned Government Advocate appearing for the respondent police submitted that based on the complaint received, the respondent police registered the FIR. According to him, the petitioners have an



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effective remedy of participating in the investigation rather than seeking quashing at this stage.

8. I have considered the submissions of both sides and perused the materials placed on record. A careful reading of the FIR reveals that no specific overt act has been attributed to the petitioners. There is no allegation of violence, obstruction, public nuisance or disturbance.

9. Articles 19(1)(a) and 19(1)(b) of the Constitution guarantee freedom of speech and expression, and the right to peaceful assembly without arms. These rights can be restricted only by reasonable restrictions provided by law. The Hon'ble Supreme Court has consistently held that peaceful protest is a recognized democratic right, and criminal prosecution cannot be launched unless the alleged act squarely falls within the ingredients of a penal offence.

10. The ingredients of Sections 189(2) & 126(2) of IPC are not made out in the FIR. Criminal law cannot be invoked on vague and omnibus allegations, particularly when the allegations seek to criminalise peaceful expression. The present FIR appears to have been registered mechanically and without application of mind.



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11. In view of the authoritative pronouncements cited by the petitioners, and considering the facts of the present case, this Court finds that the continuation of the investigation against the petitioners would amount to abuse of process of law.

12. Accordingly, this Court is inclined to exercise its inherent powers under Section 482 Cr.P.C., 1973 (corresponding provision of Section 528 of BNSS) to secure the ends of justice.

13. In the result, the Criminal Original Petition is allowed. The FIR in Crime No.305 of 2025 on the file of the respondent police is quashed insofar as the petitioners herein are concerned. Consequently, the connected miscellaneous petition is closed.

29.01.2026

NCC : Yes / No
Index : Yes / No
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L.VICTORIA GOWRI, J.

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TO:-

1. The Inspector of Police,
R.S.Mangalam Police Station,
Ramanathapuram District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Order made in
CrI.O.P.(MD)No.1654 of 2026

Dated
29.01.2026