



Crl.OP(MD)No.1943 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD) No.1943 of 2025

Sathyaraj

... Petitioner / Accused No.3

Vs

1. The State represented by
The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
(Crime No.289 of 2021)

... 1st Respondent / Complainant

2. Kottaichamy

... 2nd Respondent / *Defacto Complainant*

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the proceedings in C.C.No.32 of 2023 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Rameshwaram, Ramanathapuram District, and quash the same.

For Petitioner : Mr.B.Mahendrarajan

For R1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side)



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ORDER

Preface:

The inherent jurisdiction of this Court, though extraordinary in nature, is intended to secure the ends of justice and to prevent abuse of the process of any Court. Criminal law, as a coercive instrument of the State, cannot be allowed to be invoked either mechanically or on tenuous allegations which, even if accepted in their entirety, fail to disclose the essential ingredients of the offences alleged. The present petition calls upon this Court to examine whether a prosecution launched on the allegation that the petitioner and others distributed sweets on a particular day, allegedly to commemorate the demolition of Babri Masjid, can be permitted to continue in the absence of legally sustainable materials constituting the offences under Sections 143 and 505(2) of the Indian Penal Code.

2. The petitioner, arrayed as Accused No.3, seeks quashment of the charge sheet in C.C.No.32 of 2023 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Rameshwaram. The



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prosecution originated from a *suo motu* First Information Report registered by the 1st respondent Police in Crime No.289 of 2021.

Factual matrix / case of the prosecution:

3. The prosecution case, as could be gathered from the FIR and the final report, is that on 06.12.2021 at about 5.30 p.m., the petitioner and the other accused had allegedly assembled together without adhering to the Government rules and regulations and distributed sweets to the public with the intention of celebrating the Babri Masjid demolition day.

4. On the basis of the said allegation, the 1st respondent Police registered a suo motu FIR in Crime No.289 of 2021 for the offences under Sections 143 and 505(2) IPC. After investigation, a final report came to be filed, and the same was taken on file as C.C.No.32 of 2023 by the learned District Munsif-cum-Judicial Magistrate, Rameshwaram, Ramanathapuram District.



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5. Assailing the continuance of the said criminal prosecution, the petitioner has approached this Court by way of the present Criminal Original Petition.

Grounds for quash:

6. The principal grounds urged by the petitioner for quashing the proceedings may be summarised thus:

7. Firstly, it is contended that the allegations found in the FIR and the final report, even if taken at face value, do not satisfy the ingredients of the offences alleged. According to the petitioner, the act attributed is only one of assembly and distribution of sweets, and the same, without more, cannot attract either Section 143 IPC or Section 505(2) IPC.

8. Secondly, it is contended that the case has been registered *suo motu* by the police without any complaint from the public, without any independent witness, and without any material to establish that the



alleged act caused fear, alarm, enmity, hatred, or ill-will between communities.

9. Thirdly, the petitioner would submit that for taking cognizance of an offence under Section 505 IPC, previous sanction under Section 196 Cr.P.C. is mandatory, and in the absence of such sanction, the very prosecution is vitiated.

10. Fourthly, it is urged that there is no legal evidence collected against the petitioner except the statement of the police official who has set the criminal law in motion. According to the petitioner, there is no independent material, no public complaint, no evidence of inflammatory speech, no publication, no utterance, and no overt act attributable to the petitioner that could legally sustain the charge.

11. Fifthly, placing reliance on the celebrated judgments of the Honourable Supreme Court in *R.P. Kapur v. State of Punjab*¹, and

¹ AIR 1960 SC 866



*State of Haryana v. Bhajan Lal*², it is argued that the present case falls squarely within the categories warranting quashment, namely, where the allegations do not constitute any offence and where there is no legal evidence to sustain the prosecution.

Submissions of the learned counsel for the petitioner:

12. The learned counsel appearing for the petitioner submitted that the petitioner is innocent and has been falsely roped in. The prosecution, according to him, is a mere statistical registration without any meaningful enquiry or objective collection of incriminating materials.

13. The learned counsel would further submit that the mere allegation that sweets were distributed on a particular day cannot, by any stretch of imagination, be elevated into an offence under Section 505(2) IPC, unless there is clear material to show that any statement, rumour, or report was made, published, or circulated with intent to

² 1992 Supp (1) SCC 335



promote enmity, hatred, or ill-will between different religious, racial, language, or regional groups or castes or communities.

14. It was also argued that Section 143 IPC, which penalises membership of an unlawful assembly, can be attracted only when the assembly is shown to have had one of the objects enumerated under Section 141 IPC. In the case on hand, there is no allegation whatsoever that the accused had assembled with any common object falling within the four corners of Section 141 IPC.

15. The learned counsel would add that there is neither any complaint from the public nor any indication that public peace was disturbed. No witness has stated that any communal slogan was raised, that any provocation was made, or that any act capable of inciting disharmony had taken place. In such circumstances, the continuation of the prosecution would amount to abuse of the process of law.



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16. The learned counsel also relied upon the legal bar flowing from Section 196 Cr.P.C. in respect of offences under Section 505 IPC and submitted that the prosecution, in the absence of the requisite sanction for cognizance, is unsustainable.

Submissions of the learned government advocate:

17. Per contra, the learned Government Advocate (Crl. Side) appearing for the 1st respondent stoutly opposed the quash petition. He submitted that the allegations in the final report disclose commission of cognizable offences and that the truth or otherwise of the allegations can be gone into only during trial.

18. It was further submitted that the police, having found that the petitioner and others had assembled and distributed sweets on a communally sensitive day, registered the case in order to prevent any breach of peace and to maintain communal harmony. According to the learned Government Advocate, the materials collected during investigation justify the prosecution being put to trial.



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19. The learned Government Advocate would therefore contend that at the stage of quashment, this Court need not conduct a meticulous appreciation of evidence and that the petitioner must establish his innocence only before the trial Court.

20. Heard the learned counsels on either side and carefully perused the materials available on record.

Point for consideration:

21. In the light of the rival submissions and the materials placed before this Court, the following point arises for consideration:

Whether the continuation of the prosecution against the petitioner in C.C.No.32 of 2023 for the offences under Sections 143 and 505(2) IPC amounts to abuse of the process of Court, warranting interference by this Court under Section 482 Cr.P.C.?

Analysis:

22. At the outset, it is necessary to remind oneself of the well-settled principles governing the exercise of jurisdiction under Section



482 Cr.P.C. The Honourable Supreme Court in *R.P. Kapur v. State of Punjab*³ and later in *State of Haryana v. Bhajan Lal*⁴ has delineated the categories of cases wherein criminal proceedings may be quashed. One such category is where the allegations, even if accepted in full, do not constitute the offence alleged. Another is where the uncontroverted allegations and the materials collected do not disclose the commission of any offence.

23. In the present case, the foundational allegation is that the petitioner and others assembled and distributed sweets on 06.12.2021 in order to celebrate the Babri Masjid demolition day. The question is whether this allegation, standing by itself, constitutes either an unlawful assembly under Section 143 IPC or promotion of enmity under Section 505(2) IPC.

As regards Section 143 IPC

24. Section 143 IPC is not a standalone provision. It derives its content from Section 141 IPC, which defines an unlawful assembly.

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Unless the assembly is shown to have one of the common objects specified in Section 141 IPC, the offence under Section 143 IPC cannot be attracted.

25. The final report, as projected before this Court, does not indicate that the alleged assembly had any common object to overawe the Government or public servant by criminal force, or to resist execution of law, or to commit mischief, criminal trespass, or any other offence, or to obtain possession of property by force, or to compel anyone by criminal force to do or omit any act. None of the statutory ingredients of Section 141 IPC are either pleaded or prima facie made out.

26. The bald assertion that the petitioner and others assembled without following Government rules and regulations is wholly vague. There is no reference to the specific order allegedly violated, the legal source of such restriction, the nature of the prohibited conduct, or the manner in which such assembly became unlawful in the eye of law.



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27. Therefore, this Court is of the considered view that the ingredients necessary to attract Section 143 IPC are conspicuously absent on the face of the record.

28. The offence under Section 505(2) IPC is of a serious nature, for it relates to statements conducing to public mischief by promoting enmity, hatred, or ill-will between classes or communities. To attract the said provision, there must be a statement, rumour, or report, and such statement must have the tendency or intention to promote communal disharmony or feelings of enmity.

29. In the case on hand, there is no allegation that the petitioner made any speech, issued any publication, circulated any material, shouted any slogan, or uttered any words capable of inciting religious hatred or communal disharmony. The prosecution, at its highest, alleges only the distribution of sweets. Mere symbolism, however distasteful or provocative it may be perceived by some, cannot automatically be



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criminalised under Section 505(2) IPC unless it is accompanied by legally cognizable material satisfying the ingredients of the provision.

30. Criminal law cannot be stretched on assumptions, inferences, or subjective suspicion. A penal provision, particularly one dealing with communal harmony, must be invoked with scrupulous regard to its statutory ingredients. Courts cannot permit a prosecution to continue merely because the date is historically or communally sensitive. Sensitivity of a date cannot substitute proof of the ingredients of an offence.

31. The materials placed before this Court do not disclose any statement, rumour, report, or overt act attributable to the petitioner that promoted or was intended to promote enmity, hatred, or ill-will between communities. In the absence of such foundational allegations, the charge under Section 505(2) IPC becomes wholly unsustainable.



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On the question of sanction under Section 196 Cr.P.C.

32. Yet another significant infirmity pointed out by the petitioner is the requirement of prior sanction under Section 196 Cr.P.C. for taking cognizance of offences under Section 505 IPC. The statutory safeguard is not an empty formality; it is designed to ensure that prosecutions involving offences of this nature are not launched or continued lightly.

33. Even assuming that the defect of sanction may become crucial at the stage of cognizance, the absence of the essential ingredients of the substantive offence itself renders the prosecution vulnerable at the threshold. Once this Court finds that the basic allegations do not attract Section 505(2) IPC, the prosecution cannot be kept alive on the mere speculative possibility of future justification.

On absence of independent material

34. It is also relevant to note that the present FIR is a suo motu registration by the police. There is no complaint from any member of



the public alleging disturbance, fear, communal provocation, or threat to public tranquillity. No independent witness is shown to have spoken about any inflammatory conduct on the part of the petitioner. No material objects, pamphlets, videos, speeches, or publications have been placed to support the allegation under Section 505(2) IPC.

35. Though it is true that a prosecution need not fail merely because the de facto complainant is a police official, the Court cannot ignore the complete absence of independent material when the offence alleged is one requiring specific and grave ingredients. A mechanical reproduction of penal sections in the FIR and charge sheet cannot, by itself, confer legal sanctity upon the prosecution.

36. This Court finds that the case on hand falls squarely within the first and third categories adumbrated in Bhajan Lal, namely:

First, where the allegations made in the FIR and the final report, even if accepted in entirety, do not prima facie constitute the offences alleged; and



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Secondly, where the uncontroverted allegations and the materials collected in support thereof do not disclose the commission of any offence and do not make out a case against the accused.

37. Continuing such a prosecution would serve no useful purpose except subjecting the petitioner to the rigours of a criminal trial founded on inadequate and legally deficient materials. The criminal process cannot be permitted to be used as an instrument of harassment where the chances of conviction are inherently bleak and the very substratum of the accusation is fragile.

38. In view of the foregoing analysis, this Court has no hesitation in holding that the allegations levelled against the petitioner do not satisfy the ingredients of Sections 143 and 505(2) IPC. The continuation of the proceedings in C.C.No.32 of 2023 against the petitioner would therefore amount to abuse of the process of Court.

39. Courts must remain vigilant to ensure that criminal law is invoked to punish real wrongdoing and not to multiply prosecutions on



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the basis of vague, inferential, or legally deficient accusations. Liberty cannot be placed in peril on the strength of speculative criminality. Where the allegations do not cross the threshold of a cognizable offence, judicial intervention is not only justified but imperative. This Court is therefore satisfied that the ends of justice require quashment of the proceedings insofar as the petitioner is concerned.

40. Accordingly, this Criminal Original Petition is **allowed**. The proceedings in C.C.No.32 of 2023 pending on the file of the learned District Munsif-cum-Judicial Magistrate, Rameshwaram, Ramanathapuram District, insofar as the petitioner / Accused No.3 is concerned, are hereby quashed.

09.02.2026

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

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To

1. The District Munsif-cum-Judicial Magistrate, Rameshwaram,
Ramanathapuram District.
2. The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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