



CRL OP(MD). No.1934 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 27/01/2026

CORAM

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

CRL OP(MD). No.1934 of 2024
and
CRL MP(MD)No.1440 of 2024

1.B.Sathar Ali
2.S.Sabeer Masthan
3.S.Syed Salmaan Farries
4.S.Safeek
5.M.Saleem
6.M.Mohammed Ali
7.P.Shahul Hameed
8.M.Musthafa Jafar

... Petitioners

Vs

1.The State represented by
The Inspector of Police,
Vadasserry Police Station,
Kanyakumari District.

... 1st Respondent / Complainant

2.N.Balakrishnan

... 2nd Respondent / Defacto Complainant

PRAYER :-

To call for the records relating to C.C.No.64 of 2021 pending on the file of the learned Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District and quash the same as illegal.



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For Petitioners : Mr.V.Balaji Rajaram
For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl Side)

ORDER

This Criminal Original Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the inherent jurisdiction of this Court, relating to C.C.No.64 of 2021 pending on the file of the learned Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District and quash the same as illegal.

2. The case of the prosecution, as reflected in the First Information Report, is that on 16.04.2019 the accused persons, without obtaining any permission, has issued pamphlet to the public in favour of particular political party, thereby violated the election Commission's Rules. Hence, case in Crime No.98 of 2019 was registered and the same culminated in laying a charge sheet in C.C.No.64 of 2021 for the offence under Sections 171(F), 143 of IPC and Section 125 of Representation of People Act, 1951 before the learned Judicial Magistrate No.II, Nagercoil. Challenging the same, the present criminal original petition is filed.



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3. The petitioners contend that the impugned FIR suffers from fundamental illegality and does not disclose the commission of any cognizable offence. The petitioners submit that the pamphlet was issued 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.

4. The learned counsel for the petitioners submitted that the FIR and the charge sheet does not contain any specific overt act attributable to any of the petitioners. Section 143 IPC cannot be invoked in the present case because the essence of this provision is the participation in an unlawful assembly where there is use or threat of criminal force as defined in Section 141 IPC. There has been no criminal force or intention to use force. Simply issuing pamphlet to the public does not amount to unlawful assembly under Section 143 IPC.



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5. Section 171(f) of IPC defines the punishment for undue influence or personation at an election. In the instant case, it is not a prosecution' case, where the petitioners have personation at an election and they have influenced the general public as stated in the provision. Hence, the final report does not disclose any of the essential requirements as to constitute such an offence. As such, the alleged final report against the petitioners with respect to such an offence is not attributable to the petitioner.

6. Insofar as the offence under Section 125 of the Representation of People Act, 1951 is concerned, the petitioners have not involved to promote enmity between two different classes on the ground of religion, race, caste, community or language in connection with election. Hence, the essential requirements as to constitute such an offence is not fulfilled.

7. It is further argued that the allegations in the charge sheet are vague, sweeping and intended only to portray a peaceful issuance of pamphlet as illegal. It is also submitted that no independent witness was cited by the prosecution alleging that they were affected by issuance of



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such pamphlet. Criminal law cannot be invoked to curtail peaceful expression, which is the bedrock of democratic governance.

8. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that based on the complaint given by the Village Administrative Officer, Nagercoil North Village, the respondent police registered the FIR and thereafter, the charge sheet was filed. According to him, the petitioners have an effective remedy of participating in the investigation rather than seeking quashing of FIR and the charge sheet at this stage.

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

10. Article 19(1)(a) and 19(1)(b) of the Constitution guarantee freedom of speech and expression, and the right to allow individuals to



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express their views, opinions, and beliefs freely through speech, writing, printing, or media, including electronic media. These rights can be restricted only by reasonable restrictions provided by law. The Hon'ble Supreme Court has consistently held that criminal prosecution cannot be launched unless the alleged act squarely falls within the ingredients of a penal offence.

11. The ingredients of Sections 171(F) and 143 IPC and Section 125 of the Representation of People Act, 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.

12. 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 trial against the petitioners would amount to abuse of process of law.



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13. 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.

14. In the result, the Criminal Original Petition is allowed. The FIR in Crime No.98 of 2019 on the file of the first respondent police and the proceedings in C.C.No.64 of 2021 under Sections 171(F) and 143 of IPC and Section 125 of the Representation of People Act, on the file of the learned Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District, are quashed insofar as the petitioners are concerned. Consequently, the connected miscellaneous petition is closed.

27.01.2026

NCC : Yes/No
Index : Yes / No
Rmk



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L. VICTORIA GOWRI,J

Rmk

To

- 1.The Judicial Magistrate Court No.II, Nagercoil, Kanyakumari District.
- 2.The Inspector of Police,
Vadasserry Police Station,
Kanyakumari District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
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