



Crl.O.P(MD)No.1792 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P(MD)No.1792 of 2026

1.J.Samaskhan
2.M.Kamarul Jamal @ Kamaral Jaman
3.S.Mydeen Batsha @ Mideen Batcha ... Petitioners/A1,A2 & A5

Vs.

1.The State of Tamil Nadu,
Rep.by the Inspector of Police,
Thiruppathur Town Police Station,
Thiruppathur,
Sivagangai District.
(Crime No.29/2022) ... Respondent/Complainant

2.Gunasekaran ... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the Complainant in S.T.C.No. 386 of 2023, U/s. 143, 290, 291 of IPC on the file of the Learned Principal District Munsif cum Judicial Magistrate Court, Thirupattur and quash the same as it has no prima facie case as against the petitioner.

For Petitioners : Mr.Kalantaraasik Ahamadu.I



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For Respondents : Mr.B.Thanga Aravindh
Government Advocat(Crl.Side)

ORDER

Seeking quashment of the Final Report in S.T.C.No.386 of 2023 on the file of Principal District Munsif cum Judicial Magistrate Court, Thirupattur, this criminal original petition is filed.

2. The prosecution case is that on 19.03.2022 between 18:00 and 18:30 hours, the petitioners and others allegedly conducted a protest against the Karnataka High Court's verdict on the Hijab issue, raised slogans expressing dissatisfaction, and caused traffic obstruction and public disturbance. Based on the complaint, a case in Crime No.29 of 2022 was registered against the petitioners for offences under Sections 143, 290 and 291 IPC. Upon completion of investigation, a final report was filed before the learned Principal District Munsif cum Judicial Magistrate Court, Thirupattur and the same was taken on file as S.T.C.No.386 of 2023 for the same offences.



3. The learned counsel for the petitioners contend that the impugned Final Report suffers from fundamental illegality and does not disclose the commission of any cognizable offence. The petitioners submit that the alleged protest was conducted peacefully and that peaceful expression of opinion 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 Final Report does not contain any specific overt act attributable to the petitioners. The Final Report does not whisper any material to show that the petitioners indulged in violence, caused disturbance, annoyance or obstruction to any public authority or to the general public.

5. It is further argued that the allegations in the Final Report 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.

6. Per contra, the learned Government Advocate(Crl.side) on the other hand, submitted that the petitioners had assembled without permission, blocked a public road, and caused inconvenience, and therefore, the prosecution is justified. It was contended that the truthfulness of the allegations can be tested only during trial.

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

8. Section 143 IPC requires a *prima facie* indication that the person was a member of an “unlawful assembly” as defined, i.e., an assembly with a common object falling within Section 141 IPC. In a protest-related FIR, merely stating that a group assembled, without particulars of common object vis-à-vis each accused, and without any



material indicating participation beyond presence, is insufficient to fasten criminality on an individual.

9. Section 290 IPC relates to punishment for public nuisance where the nuisance is established. Even to proceed, there must be foundational allegations describing the nuisance and the petitioner's role in causing it. Section 291 IPC relates to a person who repeats or continues a public nuisance, having been lawfully enjoined by a public servant not to repeat or continue such nuisance. Such foundational particulars are absent as against the petitioner.

10. Article 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.



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11. The ingredients of Sections 143, 290 and 291 IPC are not made out in the Final Report. Criminal law cannot be invoked on vague and omnibus allegations, particularly when the allegations seek to criminalise peaceful expression. The present Final Report 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 investigation against the petitioners would amount to abuse of process of law.

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 Final Report in S.T.C.No.386 of 2023 on the file of Principal District



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Munsif cum Judicial Magistrate Court, Thirupattur is quashed insofar as the petitioners are concerned.

30.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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To

- 1.The Principal District Munsif cum Judicial Magistrate Court,
Thirupattur.
- 2.The Inspector of Police,
Thiruppathur Town Police Station,
Thiruppathur,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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