



CRL OP(MD). No.2646 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 10/02/2026

CORAM

THE HONOURABLE MRS. JUSTICE L. VICTORIA GOWRI

CRL OP(MD). No.2646 of 2026

and

CrI.M.P(MD).No.2930 of 2026

Ganesa Perumal,

... Petitioner

Vs

The State of Tamilnadu,
Rep Sub Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District.
Crime No.326/2022..

... Respondent

PRAYER :- To call for the records pertaining to the proceedings in STC No.682/2025 dated 18.06.2025 pending on the file of the Learned Judicial Magistrate Court, Ambasamudram and Quash the same.

For Petitioner : Mr.R.Venkatesan
For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (CrI.Side)



CRL OP(MD). No.2646 of 2026

ORDER

WEB COPY

This criminal original petition has been filed to quash the proceedings in STC No.682/2025 dated 18.06.2025 pending on the file of the Learned Judicial Magistrate Court, Ambasamudram , which was filed for the offences under Sections 143, 341, 290 and 291 of IPC.

2. The case of the prosecution, as reflected in the First Information Report is that the petitioner and other accused were protesting by unlawfully blocking the road without obtaining any prior permission from the respondent police, which was causing nuisance for the general public, pursuant to which the FIR came to be registered. After completion of investigation, the respondent police filed a final report and the same was taken on file in STC No.682/2025 on the file of the Learned Judicial Magistrate Court, Ambasamudram

3. The petitioner contend that the impugned FIR suffers from fundamental illegality and does not disclose the commission of any cognizable offence. The petitioner submit that the campaign was conducted peacefully and that right of expression is a constitutionally



CRL OP(MD). No.2646 of 2026

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 petitioner submitted that the petitioner was not involved in the said occurrence and he did not waylay the buses and caused any public nuisance. Further, the learned counsel for the petitioner submitted that the FIR does not contain any specific overt act attributable to the petitioner and he was not associated with the unlawful assembly. Therefore, the essential ingredients of Sections 143 of IPC is not maintainable.

5. Further the learned counsel for the petitioner 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 341 of BNS would not attract.

6. Further, he would submit that there was no proof to show that the petitioner has caused public nuisance in the alleged scene of



CRL OP(MD). No.2646 of 2026

occurrence and that public were affected. Therefore, no case is made out under Section 290 of BNS also.

7. It is further argued that the allegations in the charge sheet 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.

8. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that based on the complaint given by the Inspector of Police, the respondent police registered the FIR. According to him, the petitioner has an effective remedy of participating in the investigation rather than seeking quashing of FIR 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 reveals that no specific overt act has been attributed to the petitioner. There is no allegation of violence, obstruction, public nuisance or disturbance.



10. 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.

11. However, in the case on hand, the charge framed against the petitioner herein is under Section 291 of the IPC, corresponding to Section 293 of the Bharatiya Nyaya Sanhita, which deals with the continuance of nuisance after an injunction to discontinue the same, and the provision is extracted as follows:

291. Continuance of nuisance after injunction to discontinue.—Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat or continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.



CRL OP(MD). No.2646 of 2026

12. A careful perusal of the said provisions would make it clear that the offence of continuous public nuisance, as contemplated under Section 268, has to be read in conjunction with Section 291 of the IPC. It could be understood that a person is guilty of public nuisance if he does any act or is guilty of an illegal omission which causes common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury. In the instant case, the complaint is a suo motu complaint by the respondent police, and it is evident that no one either from the vicinity or among the general public had lodged any complaint in respect of the allegations made in the charge sheet. A similar matter has been dealt with by this Court in Crl.O.P.(MD).No.16135 of 2021, dated 09.11.2021, the relevant portion is extracted hereunder:

8.A formal proceeding from the competent authority must have been issued between the first commission of the act of public nuisance and its repetition. In the case on hand, there has been no such issuance of formal proceeding against the petitioners. The statement by the informant police that the accused did not pay heed to their instruction will



not constitute an offence under Section 291 of IPC.

The act of committing public nuisance by itself is a non-cognizable offence. For it to become a cognizable offence, a further element is required and that is enjoining by the competent public servant to the person concerned to desist from indulging in the act and the person to whom the directive has been issued must defy the same and repeat the act of public nuisance. Then and then alone Section 291 of IPC will get attracted and not otherwise. In the case on hand, the conditions precedent for invoking Section 291 of IPC are wholly absent.

9.What cannot be done directly cannot be done indirectly also. This doctrine is based upon the Latin maxim “Quando aliquid prohibetur ex directo, prohibetur et per obliquum”. This principle can be applied to criminal law also. The respondent police could not have registered a case under Section 290 of IPC on their own against the petitioners. In order to overcome the statutory bar created by Section 155 of Cr.Pc, the police invoked Section 291 of IPC.



CRL OP(MD). No.2646 of 2026

13. Fortified by the aforesaid judgment, this Court is of the considered view that, for an offence under Section 291 of the IPC, a formal proceeding / injunction issued by the respondent police directing the person to discontinue the public nuisance is a *sine qua non*. Such an injunction should precede the alleged continuance of the offence. However, in the instant case, the charge sheet does not specify the details relating to the initial commission of the alleged public nuisance, nor does it disclose the particulars of any injunction issued by the second respondent, or the manner in which such injunction was allegedly violated by the accused. In view of the same, the offence as defined under Section 291 of the IPC is not made out.

14. The ingredients of Sections 143, 341, 290 and 291 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.



CRL OP(MD). No.2646 of 2026

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

16. 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.

17. In the result, the Criminal Original Petition is allowed. The impugned proceedings in STC No.682/2025 pending on the file of the Learned Judicial Magistrate Court, Ambasamudram, in Crime No.326 of 2022 is quashed insofar as the petitioner is concerned. Consequently, the connected miscellaneous petitions are closed.

10.02.2026

tta

To

Sub Inspector of Police,
Vickramasingapuram Police Station,
Tirunelveli District.

L. VICTORIA GOWRI,J

9/10



WEB COPY



CRL OP(MD). No.2646 of 2026

tta

ORDER
IN
CRL OP(MD) No.2646 of 2026

Date : 10/02/2026

10/10