



CrI.O.P(MD)No.3867 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrI.O.P(MD)No.3867 of 2026
& CrI.M.P(MD)No.4133 of 2026

S.Prabhakaran

... Petitioner

Vs.

The State of Tamil Nadu,
Rep.by the Inspector of Police,
Rameswaram Town Police Station,
Ramanathapuram.
(Crime No.128/2025)

...Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the FIR in Crime No.128 of 2025 on the file of the respondent police and quash the same.

For Petitioner : Mr.D.Nallathambi

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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CrI.O.P(MD)No.3867 of 2026

ORDER

Preface:

This Criminal Original Petition has been filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, invoking the inherent jurisdiction of this Court, seeking to quash the case in Crime No.128 of 2025 on the file of the respondent police.

Case of the Prosecution:

2. The case of the prosecution, as reflected in the First Information Report, is that on 17.06.2025, when the respondent and other police officials were on surveillance, they found that the accused persons joined together and held a protest against the temple administration with regard to quick darshan for the native residents of Rameswaram, thereby caused disturbance and nuisance to the general public. On the basis of the complaint given by a police official, the respondent police registered a case in Crime No.128 of 2025 for the alleged offences under Sections 189(2) and 292 of the Bharatiya Nyaya Sanhita, 2023.



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Case of the Petitioner:

3. The petitioner is arrayed as A2 in the impugned case. The petitioner submits that he is the District President of a political party.

4. According to the petitioner, the protest conducted by him and others was a peaceful black flag protest expressing dissent against the alleged illegal actions. It is asserted that the protest did not disturb public order, traffic, or the general public and was well within the constitutional rights guaranteed under Article 19(1)(a) of the Constitution of India.

Grounds for quash:

5. The petitioner contends that the essential ingredients of Section 189(2) of BNS, relating to unlawful assembly with criminal force or common object, are completely absent. The materials on record do not disclose any use of force or violence or any common object attracting



criminal liability. It is further contended that Section 292 of BNS is not attracted, as there is no nuisance caused to the public by the petitioner.

6. The complaint has been lodged by a police official, and there is no independent complaint from any member of the general public alleging inconvenience or obstruction. The prosecution, according to the petitioner, is politically motivated and amounts to abuse of the process of law.

Submissions:

7. The learned counsel for the petitioner reiterated that the impugned prosecution is malicious, devoid of material evidence, and intended only to stifle democratic dissent. It was submitted that compelling the petitioner to face trial would result in grave miscarriage of justice.

8. The learned Government Advocate (Criminal Side), on the other hand, submitted that the petitioner and others had assembled without permission, and caused inconvenience, and therefore, the



prosecution is justified. It was contended that the truthfulness of the allegations can be tested only during trial.

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

10. *Point for Consideration:*

Whether the continuation of proceedings in Crime No.128 of 2025 on the file of the respondent police against the petitioner would amount to abuse of process of law, warranting interference under the inherent jurisdiction of this Court?

Analysis:

11. This Court has carefully perused the FIR, and the materials placed on record. For attracting Section 189(2) and 292 of BNS, the prosecution must *prima facie* establish the existence of an unlawful assembly with a common object involving criminal force or violence. The FIR itself does not disclose any act of violence, force, intimidation



and nuisance caused by the petitioner. Mere assembly or expression of dissent, in the absence of criminal force, would not constitute an unlawful assembly.

12. Peaceful protest and expression of dissent are integral to a democratic polity and are protected under Article 19(1)(a) of the Constitution of India, subject to reasonable restrictions. Criminal prosecution cannot be used as a tool to suppress lawful dissent.

13. This Court is conscious of the settled principle that when the uncontroverted allegations do not disclose the commission of any offence and when the continuation of proceedings would only result in harassment of the accused, the inherent jurisdiction of this Court can and ought to be exercised to prevent abuse of process of law.

14. In the present case, the materials on record do not disclose a *prima facie* case against the petitioner. The prosecution appears to be inherently improbable and unsupported by legally acceptable evidence.



Crl.O.P(MD)No.3867 of 2026

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15. In view of the above discussion, this Court is of the considered opinion that the continuation of proceedings in Crime No. 128 of 2025 on the file of the respondent police, against the petitioner would amount to abuse of process of law.

16. Accordingly, this Criminal Original Petition is allowed, and the proceedings in Crime No.128 of 2025 on the file of the respondent police is quashed, insofar as the petitioner is concerned. Consequently, the connected miscellaneous petition is closed.

23.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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Crl.O.P(MD)No.3867 of 2026

L.VICTORIA GOWRI, J.

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To

- 1.The Inspector of Police,
Rameswaram Town Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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