



CRL OP(MD). No.4113 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 25/02/2026

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THE HONOURABLE MRS. JUSTICE L. VICTORIA GOWRI

CRL OP(MD). No.4113 of 2026
and
CRL MP(MD)No.4441 of 2026

J.Velmurugan

...Petitioner /
Accused No.11

Vs

The State represented by
The Sub Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
(Crime No.73 of 2025)

... Respondent /
Complainant

PRAYER :-

To call for the entire records connected with the case in S.T.C. No. 2166 of 2025 pending on the file of the learned Judicial Magistrate No.I, Kovilpatti and quash the same as illegal.

For Petitioner : Mr.M.Paramasivam

For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

WEB COPY ***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 call for the entire records relating to S.T.C.No.2166 of 2025 pending on the file of the learned Judicial Magistrate No.I, Kovilpatti, arising out of Crime No.73 of 2025 dated 13.05.2025, and to quash the same as illegal.

Case of the Prosecution:

2. The case of the prosecution, as reflected in the First Information Report and the final report, is that on 13.05.2025, the petitioner along with 23 others had allegedly gathered near Kammavar School situated on the Kovilpatti to Ettayapuram Road and protested against the establishment of a new market. It is alleged that they blocked the public road without obtaining permission from the Government authorities.

3. It is further alleged that the petitioner and others showed black flags against Mr. Appavu, the Speaker of the Tamil Nadu Legislative



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Assembly, and other dignitaries who had visited the place for laying the foundation stone for the market building. On the basis of the complaint given by a police official, the respondent police registered a case in Crime No.73 of 2025 for the alleged offences under Sections 189(2) and 126(2) of the Bharatiya Nyaya Sanhita, 2023.

4. Upon completion of investigation, a final report was filed before the learned Judicial Magistrate No.I, Kovilpatti, and the same was taken on file as S.T.C.No.2166 of 2025.

Case of the Petitioner:

5. The petitioner is arrayed as A-11 in the impugned case. The petitioner submits that he is a practising advocate and a social activist. He is also functioning as the Secretary, Legal Wing, of Tamil Perarasu Party and has been actively addressing public issues and filing representations and Public Interest Litigations before the authorities and this Court for the welfare of the general public.



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6. It is the specific case of the petitioner that the new market in question was being run illegally and the same was restrained by an order of this Court in W.P.(MD) No.12445 of 2023 dated 16.06.2023, wherein clear directions were issued that no marketing or allied activity shall be carried on in the land until proper permissions are obtained from all competent authorities.

7. Though the said order was challenged by the market management in S.L.P.(C)No.14548 of 2023, the same is still pending before the Hon'ble Supreme Court. Despite the subsistence of the order passed by this Court, the authorities proceeded to conduct a foundation stone laying ceremony, citing an interim order relating to dispossession, which did not permit construction or market activity.

8. According to the petitioner, the protest conducted by him and others was a peaceful black flag protest expressing dissent against the alleged illegal actions of the authorities. It is asserted that the protest did not disturb public order, traffic, or the general public and was well within



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the constitutional rights guaranteed under Article 19(1)(a) of the Constitution of India.

Grounds for quash:

9. 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 126(2) of BNS is not attracted, as there is no material to show obstruction, danger, or wrongful restraint on a public way, nor is there any injunction or lawful order issued by a public servant prohibiting the alleged protest.

10. 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.



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WEB COPY ***Submissions:***

11. 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.

12. The learned Government Advocate (Criminal Side), on the other hand, submitted that the petitioner and others 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.

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

14. Point for Consideration:

Whether the continuation of proceedings in S.T.C.No.2166 of



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2025 against the petitioner would amount to abuse of process of law, warranting interference under the inherent jurisdiction of this Court?

Analysis:

15. This Court has carefully perused the FIR, the final report, and the materials placed on record. A reading of the prosecution records reveals that the allegations primarily relate to a peaceful protest expressing dissent against the laying of a foundation stone for a market, which is already the subject matter of pending litigation before this Court and the Hon'ble Supreme Court.

16. For attracting Section 189(2) 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, or intimidation. Mere assembly or expression of dissent, in the absence of criminal force, would not constitute an unlawful assembly.



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17. Similarly, Section 126(2) of BNS requires proof of obstruction or danger caused on a public way. Except for a bald allegation made by the complainant police official, there is no material to show actual obstruction, inconvenience, or danger to the public. No independent witness or member of the public has complained about the alleged protest.

18. 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.

19. 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.



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20. 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.

21. In view of the above discussion, this Court is of the considered opinion that the continuation of proceedings in S.T.C.No.2166 of 2025 on the file of the learned Judicial Magistrate No.I, Kovilpatti, against the petitioner would amount to abuse of process of law.

22. Accordingly, this Criminal Original Petition is allowed, and the proceedings in S.T.C.No.2166 of 2025 on the file of the learned Judicial Magistrate No.I, Kovilpatti, arising out of Crime No.73 of 2025, are quashed, insofar as the petitioner is concerned. Consequently, the connected miscellaneous petition is closed.

25.02.2026

NCC : Yes/No
Index : Yes / No

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To
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- 1.The Sub Inspector of Police,
Kovilpatti East Police Station,
Thoothukudi District.
- 2.The Judicial Magistrate No.I,
Kovilpatti.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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L. VICTORIA GOWRI,J

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