



Crl.O.P.(MD)No.3786 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **23.02.2026**

CORAM:

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

Crl.O.P.(MD)No.3786 of 2026
& Crl.M.P.(MD)No.4067 & 4069 of 2026

Umarathi

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by the Inspector of Police,
Kottar Police Station,
Nagercoil, Kanniyakumari.
(Crime No.158 of 2025)

2. Narayanan

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the case registered in impugned charge sheet in CC No. 322 of 2025 on the file of the learned Judicial Magistrate II, Nagercoil in Crime No.158 of 2025 on the file of the first respondent police and quash the same as illegal.

For Petitioner : Mr.C.Deepak

For Respondents : Mr.S.Ravi (R1)

Additional Public Prosecutor



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ORDER

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This petition has been filed challenging the charge sheet in CC No.322 of 2025 on the file of the learned Judicial Magistrate II, Nagercoil in Crime No. 158 of 2025 on the file of the first respondent police.

2. The gist of the allegations in the FIR is that on 19.03.2025 at about 12.15 pm., when the defacto complainant was working in the TASMACH at Kottar Railway Junction, the accused persons allegedly created disturbance by displaying Chief Minister's photograph and also threatened the staff working in the said shop. Pursuant to the complaint given by the defacto complainant / second respondent, a case in Crime No.158 of 2025 was registered on the file of the first respondent against the accused persons including the petitioner and the same culminated in laying a charge sheet in C.C.No.322 of 2025 on the file of the learned Judicial Magistrate No.II, Nagercoil, Kanyakumari District, for the offences under Sections 296(b), 132 and 351(3) of BNS, 2023. Seeking quashment of the same, this Criminal Original Petition is filed.

3. The learned counsel for the petitioner contend that the impugned charge sheet suffers from fundamental illegality and does not disclose the commission of any cognizable offence. The petitioner submits that peaceful



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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 petitioner submitted that the FIR does not contain any specific overt act attributable to the petitioner. The complaint does not whisper any material to show that the petitioner 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 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.

6. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the respondent police registered the FIR at the time of the petitioner conducting the protest. According to him, the petitioner have an effective remedy of participating in the investigation rather than seeking quashing at this stage.



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7. 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 obstruction and criminal intimidation. For a simple offence, the petitioner was charged for serious offences under Sections 296(b), 132 and 351(3) of IPC.

8. 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.

9. Section 296(b) of BNS criminalizes obscene acts and songs in public place. FIR does not disclose that the petitioner committed such an act. Hence, the same is not made out as against the petitioner.

10. As regards Section 132 of BNS, it was submitted that there are no allegations of assault, use of criminal force, or obstruction of any public servant in the discharge of official duties.



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11. Similarly, the materials on record do not disclose any act of assault or use of criminal force against a public servant so as to attract Section 132 of BNS.

12. As regards Section 351(3) of BNS (corresponding to 506(ii) IPC), the charge sheet is bereft of specific allegations constituting criminal intimidation of the nature contemplated under the said provision.

13. The ingredients of Sections 296(b), 132 and 351(3) of BNS 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.

14. In view of the foregoing discussion, this Court is of the considered opinion that the continuation of the criminal proceedings against the petitioner would amount to an abuse of the process of law.



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15. 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.

16. In the result, the Criminal Original Petition is allowed. The impugned charge sheet in C.C.No.322 of 2025 on the file of the learned Judicial Magistrate No.II, Nagercoil, in Crime No.158 of 2025 on the file of the first respondent police is quashed insofar as the petitioner is concerned. Consequently, connected Miscellaneous Petitions are closed.

23.02.2026

NCC : Yes / No
Index : Yes / No
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TO:-

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1. The Inspector of Police,
Kottar Police Station,
Nagercoil, Kanniyakumari.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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Order made in
CrI.O.P.(MD)No.3786 of 2026

Dated
23.02.2026