



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.02.2026

WEB COPY

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.4418 of 2026
and Crl.M.P(MD).No.4697 of 2026

1.A.R.Mahalakshmi
2.Ravichandran
3.A.S.R.Janardhanan
4.Murugesan
5.Pokkisham Venkateshwaran @ Venkateshwaran ... Petitioners

Vs.

1.The State of Tamil Nadu
rep., by the Inspector of Police,
Theppakulam Police Station,
Madurai City.
Crime NO.89 of 2025

2.Santhana Bose ... Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records pertaining to the charge sheet in STC.No.3460 of 2025 on the file of the learned Judicial Magistrate No.I, Madruai and quash the same with respect to the petitioner concerned.

For Petitioners : Mr.S.Poornachandran

For R1 : Mr.M.Sakthikumar

Government Advocate (crl.side)



ORDER

WEB COPY

Seeking quashment of the impugned charge sheet in in STC.No.3460 of 2025 on the file of the learned Judicial Magistrate No.I, Madruai, this criminal original petition is filed.

2. The case of the prosecution is that the accused persons alleged to have assembled near Kamarajar Road, Madurai City and involved in agitation with intention to create enmity between Hindu -Muslim thereby caused nuisance to general public and violated the order of the District Collector. Based on the complaint given by the second respondent, the first respondent police registered a case in Crime No.89 of 2025 and the same has culminated in laying a charge sheet in S.T.C.No.3460 of 2025 before the learned Judicial Magistrate No.I, Madurai District, for the offences punishable under Sections 189(2), 126(2), 223, 292 and 353 (1)(b) of BNS.

3. The learned counsel for the petitioners contend that the impugned FIR 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.

WEB COPY

4. The learned counsel for the petitioners submitted that the FIR does not contain any specific overt act attributable to any of the petitioners. The complaint 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 FIR 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 and others had assembled without permission and caused inconvenience, and therefore, the prosecution is justified. Hence, he strongly objected to quash the impugned charge sheet.

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



WEB COPY

8. Section 189(2) of BNS (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 126(2) of BNS (341 IPC) contemplates wrongful restraint, which must be shown by allegations indicating that the accused voluntarily obstructed a person so as to prevent that person from proceeding in any direction in which that person had a right to proceed. The FIR in the present case does not identify the person restrained by the petitioners, the place of restraint, or the act of restraint attributable to them.

10. Section 292 of BNS (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 petitioners- role in causing it. Such foundational particulars are absent as against the petitioners.



11. Section 223 of the Bharatiya Nyaya Sanhita (BNS) is not attracted against the petitioners. In this regard, the petitioners have relied upon a judgment of this Court, wherein proceedings were quashed in a case involving facts similar to the present case. Section 353(1)(b) of BNS punishes making, publishing, or circulating false information, rumors, or reports—including via electronic means—with the intent to cause, or likely to cause, public fear or alarm. This action must be intended to induce someone to commit an offense against the state or public tranquility. As such, the impugned final report does not mention on what statement with intent to cause or likely cause fear or alarm to the general public or to any section of general public. Hence, the same is not made out against the petitioners.

12. 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.

13. The ingredients of Sections 189(2), 126(2), 223, 292 and 353(1)(b) of BNS, 2023, 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 authoritative pronouncements cited by the petitioners and considering the facts of the present case, this Court finds that the continuation of the proceedings against the petitioners would amount to abuse of process of law.

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 STC.No.3460 of 2025 on the file of the learned Judicial Magistrate No.I, Madruai , in connection with Crime No.89 of 2025 on the file of the first respondent Police, is quashed insofar as the petitioners are concerned. Consequently, the connected Miscellaneous Petition is closed.

26.02.2026

NCC : Yes / No

Index : Yes / No

Rmk

To



1.The Judicial Magistrate No.I, Madurai.

2.The Inspector of Police,
Theppakulam Police Station,
Madurai City.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



L.VICTORIA GOWRI, J.

Rmk

Cr1.O.P.(MD)No.4418 of 2026

26.02.2026