



CRL OP(MD). No.4391 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 26/02/2026

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

CRL OP(MD). No.4391 of 2026

and

CRL MP(MD). Nos.4684 and 4685 of 2026

1.Jalaludeen
2.Baisal @ Sengai Baisal @ Mohamedhaja Faizal
3.Abdul Fasith @ Mohamed Fasith
4.Syed Masood
5.Faruk @ Farook Ali ... Petitioners

Vs

State of Tamilnadu
Rep by The Inspector of Police,
Kadayanallur Police Statio,
Tirunelveli District.
Crime No.55 of 2021 ... Respondent

PRAYER :-

To call for the records pertaining to the impugned final report in
STC.No.2553 of 2025 on the file of the learned Judicial Magistrate
Court, Tenkasi, and quash the same as illegal so far as the petitioners
are concerned.

For Petitioners : Mr.SMA Jinnah
For Respondent : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

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 records pertaining to the impugned final report in STC.No.2553 of 2025 on the file of the learned Judicial Magistrate Court, Tenkasi and to quash the same as illegal.

2. The case of the prosecution, as reflected in the First Information Report is that on 01.02.2021 the accused persons had unlawfully assembled, without prior permission, in front of Kadayanallur Manikoondur near Kollam to Thirumangalam National Highways and raised slogans against one Kalyanaraman, who is the member of BJP party. Despite the prohibitory order under Section 144 Cr.P.C., being in force due to Covid -19 restrictions, the accused persons gathered and even the respondent police asked them to disperse, they did not heed to the same. Therefore, FIR in Crime No. 55 of 2021 came to be registered and the same has culminated in laying a charge sheet in STC.No.2553 of 2025 on the file of the learned Judicial Magistrate, Tenkasi, for the offences under Sections 143, 283 and 270 of IPC.



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3. 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 campaign was conducted peacefully and that right of expression 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 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 infection, 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.



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6. Per contra, the learned Additional Public Prosecutor, on the other hand, submitted that the petitioners and others had assembled without permission, blocked a public road, and caused inconvenience, and also violated the prohibitory order and therefore, the prosecution is justified. Hence, he strongly objected to quash the proceedings against the petitioners.

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

8. Section 283 IPC which deals with obstruction or danger caused in any public way, requires clear averments of danger, injury, or obstruction. The FIR discloses none.

9. Section 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.



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10. Section 270 IPC requires a malignant or intentional act likely to spread infection of disease dangerous to life, whereas the prosecution has not produced any materials to show deliberate or intentional act on the part of the petitioners to spread Covid-19 infection.

11. 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.

12. The ingredients of Sections 143, 283 and 270 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.



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13. 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 investigation against the petitioners would amount to abuse of process of law.

14. 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.

15. In the result, the Criminal Original Petition is allowed. The impugned proceedings in STC.No.2553 of 2025 on the file of the learned Judicial Magistrate Court, Tenkasi, in Crime NO.55 of 2021 is quashed insofar as the petitioners are concerned. Consequently, the connected miscellaneous petitions are closed.

26.02.2026

NCC : yes / no
Index : yes / no
Rmk



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To

- 1.The Judicial Magistrate Court, Tenkasi.
- 2.The Inspector of Police,
Kadayanallur Police Statio,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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