



CrI.O.P(MD)No.7284 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.02.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CrI.O.P(MD)No.7284 of 2025
& CrI.M.P(MD)No.5298 of 2025

1.Abbas
2.Rajkumar
3.Ramaiah
4.Mahalingam
5.Ayyavu
6.Rathinam
7.Murugan

... Petitioners

Vs.

1. The Inspector of Police,
Kallikudi Police Station,
Madurai District.
(Crime No.183/2024)

2.I.T.Ponnuchamy

...Respondents

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the FIR in Crime No.183 of 2024 on the file of the first respondent police and quash the same by allowing this criminal original petition.



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For Petitioners : Mr.K.Radhakrishnan
For Respondents : Mr.M.Sakthi Kumar (R1)
Government Advocate

ORDER

This Criminal Original Petition is filed to call for the entire records Crime No. 183 of 2024 dated 06.09.2024 pending on the file of the 1st respondent and quash the same as illegal.

2. The case of the prosecution is that on 06.09.2024, when the respondent police was on a routine duty near Kurayur village crematorium, the petitioners herein along with others gathered and protested against the permission granted for running a government liquor shop. On the basis of the complaint given by the respondent police, a case in Crime No.169 of 2025 was filed for the offences under Sections 189(2), 223 of BNS, 2023.

3. The petitioners are arrayed as Accused Nos.1 to 7 in the impugned case. It is the specific case of the petitioner 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.

4. The petitioners contend 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 223 of BNS is not attracted, as there is no material to show that such disobedience caused to danger to human life, health or safety, or to cause a riot or affray.

5. 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.

6. 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.

7. 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.

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

9. This Court has carefully perused the FIR and the materials placed on record. A reading of the prosecution records reveals that the allegations primarily relate to a peaceful protest.



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10. 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.

11. Similarly, Section 223 of BNS requires proof of disobedience caused to danger to human life, health or safety, or to cause a riot or affray. 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.

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.



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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.

15. In view of the above discussion, this Court is of the considered opinion that the continuation of proceedings in Crime No. 183 of 2024 pending on the file of the first respondent police, against the petitioner would amount to abuse of process of law.

16. Accordingly, this Criminal Original Petition is allowed, and the Crime No. 183 of 2024, dated 06.09.2024, is quashed, insofar as the



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petitioners are concerned. Consequently, the connected miscellaneous petition is closed.

10.02.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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L.VICTORIA GOWRI, J.

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To

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

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