



Crl.O.P.(MD)No.9776 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.02.2026**

CORAM:

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

Crl.O.P.(MD)No.9776 of 2025
& Crl.M.P.(MD)Nos.7177 and 7178 of 2025

1. Visu

2. Vanniya Rajan

... Petitioners

Vs.

1.State of Tamilnadu,
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
Crime No.495 of 2023

2.Muthuraj

... Respondents

PRAYER : Petition filed under Section 528 of BNSS, 2023 to call for the records pertaining to the case in STC.No.1225 of 2024 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, as against this petitioner and quash the same.

For Petitioners : Mr.Karthikeya Venkatachalapathy
for Mr.P.Sivachandran

For R1 : Mr.B.Thanga Aravindh
Government Advocate (Crl.side)



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ORDER

Seeking quashment of the impugned final report laid in S.T.C.No.1225 of 2024 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari District, this criminal original petition is filed.

2.The learned counsel for the petitioners submitted that in a *suo motu* first information report registered in Crime No.495 of 2023 by the first respondent police for the offences under Sections 143 and 290 IPC as against the petitioners herein, the petitioners are the Accused Nos.1 and 2. After the completion of investigation, the same culminated in laying a charge sheet in S.T.C.No.1225 of 2024 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, Kanyakumari District.

3.The case of the prosecution is that on 19.11.2023, while the second respondent was taking care of the security arrangements for conducting RSS function at 12.00 Noon at Noorul Islam Polytechnic College Ground within the jurisdiction of Thuckalay Police Station, in terms of the order passed by this Court in W.P.(MD).No.24771 of 2023, the first petitioner, who is the Organizer of the function, and the second petitioner, who is the Speaker of the function,



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conducted the programme upto 06:30 pm. violating the permitted time limit. In this regard, a First Information Report was registered.

4.The learned counsel for the petitioner pointed out that the first information report has been registered for offences under Sections 143 and 290 IPC. To make out an offence under Section 143 IPC, there must be an unlawful assembly. An unlawful assembly is defined as an assembly of five or more persons. In the present case, only two persons have been implicated as accused; therefore, the question of attracting Section 143 IPC does not arise.

5.As far as the offence under Section 290 IPC is concerned, the same is a provision for punishment for committing a public nuisance in cases not otherwise specifically provided for in the Code. The prosecution narrative, even if taken in its entirety, does not attract the offence of public nuisance in any manner and sought for the indulgence of this Court by quashing the impugned final report.

6.The learned Government Advocate (CrI.side) submitted that having obtained a permission to conduct the RSS function, till 06:00 pm., on the instant day, the accused allegedly have proceeded with the meeting until 06:30



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pm., thereby causing inconvenience to the general public. Since the persons, who are arrayed as accused herein, are stated to be the leaders of the organisation, which conducted the public meeting, instead of arraigning all participants of the said meeting, the leaders of the organization has been arrayed as accused. Hence, the same will necessarily attract the ingredients of the alleged offences.

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

8.To attract the offence under Section 143 IPC there must be an unlawful assembly. Section 141 defines an unlawful assembly and the same is extracted as follows:-

“141. Unlawful assembly.—An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is—

First.—To overawe by criminal force, or show of criminal force, 11[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

Second.—To resist the execution of any law, or of any legal process; or



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Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly. “

9.It is well settled that an assembly of five or more persons is necessary to constitute an unlawful assembly. The FIR in the present case was initially registered for the offences under Sections 143 and 290 IPC and the same had culminated in laying charge sheet. Even at the stage of filing the final report, a careful reading of the charges shows that the investigating agency has not taken the requisite steps to establish the ingredients of an offence under Section 141 IPC, namely, the existence of an assembly of five or more persons. In the absence of such factual foundation, the offence under Section 141 IPC is not clearly made out and, therefore, the same is liable to be quashed.



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10.As regards the alleged offence under Section 290 IPC, which deals with punishment for public nuisance in cases not otherwise provided for, the essential ingredient is that the nuisance must affect the general public. In the absence of any complaint from the public, the question of an overt act constituting public nuisance does not arise. Furthermore, it is explicitly stated in the charge sheet that the meeting was conducted within the premises of Noorul Islam Polytechnic College, after obtaining proper permission from the competent authority. When the meeting was held within the college premises with prior permission, the question of causing public nuisance as if it were conducted on a public road or junction cannot arise, and hence the offence under Section 290 IPC is not made out.

11.A careful perusal of the final report and the materials are available on record would reveal that the allegations against the petitioners will not clearly make out the overtact, even if the entire prosecution is accepted as it stands, the essential ingredients for the offences are not clearly made out. Criminal law cannot be permitted to be used as a tool to vent a political vendetta, when the foundational facts necessary to constitute an offence are absent. Compelling the accused to undergo rigors of trial would amount to abuse of process of law.



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12. In view of the above, the impugned charge sheet in S.T.C.No.1225 of 2024 on the file of the learned Judicial Magistrate No.I, Padmanabhapuram, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

20.02.2026

NCC : Yes / No
Index : Yes / No
Rmk

TO:-

1. The Judicial Magistrate No.I, Padmanabhapuram.
2. The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Rmk

Order made in
CrI.O.P.(MD)No.9776 of 2025

Dated
20.02.2026