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Crl.OP(MD)No.21355 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.21355 of 2025

and

Crl.M.P.(MD).No.18327 and 18330 of 2025

S. Arulraj

... Petitioner/Accused No. 17

Vs.

1. The State of Tamilnadu,
Rep. by Sub - Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
(Crime No. 390/2023)

.... Respondent /Complainant

2. M.Sudhakar

.... Respondent /
De-facto Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the records relating to the final report in STC No.1699 of 2025 on the file of the learned Judicial Magistrate, Tenkasi and quash the same.

For Petitioner : Mr.M.Karthikeya Venkitachalapathy

For R-1 : Mr.S.Ravi
Additional Public Prosecutor



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ORDER

Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (corresponding to Section 482 Cr.P.C.), praying to call for the records pertaining to Crime No.390 of 2023 on the file of the 1st respondent police, now taken cognizance as S.T.C. No.1699 of 2025 on the file of the learned Judicial Magistrate, Tenkasi, and to quash the same.

Preface:

2. This Criminal Original Petition has been filed invoking the inherent jurisdiction of this Court, seeking quashment of the criminal proceedings initiated against the petitioner who is arrayed as 17th accused, for the alleged offences under Sections 143 and 283 of the Indian Penal Code, 1860 (corresponding to Sections 112 and 285 of the Bharatiya Nyaya Sanhita, 2023), arising out of Crime No. 390 of 2023, on the ground that the prosecution is an abuse of process of law and is in direct infringement of the fundamental rights guaranteed under Article 19 of the Constitution of India.



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Case of the prosecution:

3. The case of the prosecution, as reflected in the First Information Report and the final report, is that on 07.09.2023, the petitioner along with others allegedly assembled at Tenkasi and conducted a public demonstration condemning certain remarks allegedly made by a Minister of the Government of Tamil Nadu touching upon Sanatana Dharma.

4. It is alleged that the said assembly constituted an unlawful assembly and caused obstruction to the public, thereby attracting offences under Sections 143 and 283 IPC. Based on the complaint lodged by the 2nd respondent, the 1st respondent police registered the FIR in Crime No.390 of 2023. Upon completion of investigation, a final report was filed and cognizance was taken by the learned Judicial Magistrate, Tenkasi, in S.T.C. No.1699 of 2025, which is the subject matter of challenge in the present petition.



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Case of the petitioner / grounds for quash:

5. The petitioner would contend that he has not committed any offence as alleged and that the entire prosecution is legally unsustainable. It is contended that the alleged demonstration was peaceful in nature, without violence, obstruction, or threat to public order, and was an exercise of the constitutional right to assemble and express dissent, guaranteed under Article 19(1)(a) and 19(1)(b) of the Constitution of India.

6. The petitioner further submits that Section 143 IPC presupposes the existence of an unlawful assembly, which in turn requires a common object falling within Section 141 IPC. No such unlawful common object is either alleged or made out in the FIR or final report. It is further contended that no prohibitory order under law was in force at the relevant point of time, and in the absence of any lawful order prohibiting assembly, the very invocation of Section 143 IPC is legally untenable.

7. With regard to Section 283 IPC, it is contended that there is no material to show that the petitioner caused danger, obstruction or



injury to the public way, and the allegations are vague and omnibus, without specific particulars. The petitioner therefore submits that the continuation of the proceedings would amount to a chilling effect on democratic dissent and an abuse of the criminal process, warranting interference by this Court.

Submissions:

8. The learned counsel for the petitioner reiterated that the FIR and final report, even if taken at face value, do not disclose the essential ingredients of the offences alleged and that the criminal law has been invoked to stifle peaceful protest.

9. The learned Government Advocate (Criminal Side), appearing for the 1st respondent, would submit that the investigation has been completed and the final report has been filed and that the petitioner may raise all his defences before the learned Trial Court.

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



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Point for consideration:

11. The point that arises for consideration is whether the continuation of criminal proceedings in S.T.C. No.1699 of 2025, arising out of Crime No.390 of 2023, is an abuse of process of law warranting interference under Section 528 BNSS?

Analysis:

12. It is well settled that the inherent powers of this Court may be exercised where the allegations do not disclose the commission of any offence or where the prosecution is manifestly attended with mala fides or amounts to abuse of process.

13. A careful reading of the FIR and the final report reveals that the gravamen of the allegation is the participation of the petitioner in a public demonstration condemning a political statement. There is no allegation of violence, damage to public property, use of force, or incitement to disorder. Section 143 IPC can be attracted only when the assembly is unlawful within the meaning of Section 141 IPC. Mere assembly for expressing dissent, without



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any unlawful common object, cannot be branded as an unlawful assembly.

14. Further, the materials on record do not disclose the existence of any prohibitory order passed by a competent authority prohibiting assembly on the relevant date. In the absence of such an order, criminal prosecution for unlawful assembly cannot be sustained. As regards Section 283 IPC, the prosecution has failed to indicate as to how the alleged demonstration caused obstruction or danger to the public way. Bald and general allegations, without specific particulars, are insufficient to attract penal consequences.

15. Peaceful protest and expression of dissent form the cornerstone of a democratic society, and criminal law cannot be employed as a tool to silence constitutional freedoms. This Court is therefore of the considered view that the continuation of the impugned proceedings would result in miscarriage of justice and would amount to an abuse of process of law.



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16. Before parting, this Court deems it appropriate to reiterate that criminal law must not be permitted to trench upon constitutionally protected freedoms, and law enforcement agencies are expected to act with restraint and constitutional sensitivity while dealing with peaceful democratic expressions.

17. In the result, this Criminal Original Petition is allowed. The proceedings in Crime No.390 of 2023 on the file of the 1st respondent police, now pending as S.T.C. No.1699 of 2025 on the file of the learned Judicial Magistrate, Tenkasi, are hereby quashed. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

Sml

To

1.The Judicial Magistrate,
Tenkasi.

2.The Sub - Inspector of Police,
Tenkasi Police Station,
Tenkasi District.

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



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L.VICTORIA GOWRI, J.

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