



Crl.OP(MD)No.23810 of

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.01.2026

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.23810 of 2025

and

Crl.MP(MD)Nos.20663 and 20666 of 2025

1.Jothimani
2.Balamurugan
3.Kanniyappan

... Petitioners/Accused Nos.1,3 and 5

Vs.

The State of Tamil Nadu Rep by,
The Inspector of Police,
Vilathikulam East Police Station,
Thoothukudi District.
(Crime No.45 of 2019)

... 1st Respondent / Complainant

2. Kalpana Devi
Deputy Project Development Officer,
Panchayat Union Vilathikulam flying squad-II,
Vilathikulam assembly,
Thoothukudi District.

... 2nd Respondent / Defacto complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the entire records pertaining to the impugned charge sheet in STC No. 770 of 2021 on the file of learned District Munsif cum Judicial Magistrate Court, Vilathikulam, Thoothukudi District and quash the same as far as the petitioners are concerned.



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For Petitioner : Mr.S.Ramakrishnan
For Respondent : Mr.S.Ravi
Additional Public Prosecutor

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 entire records relating to in STC No.770 of 2021 on the file of learned District Munsif cum Judicial Magistrate Court, Vilathikulam, Thoothukudi District, arising out of Crime No.45 of 2019 dated 23.03.2019, and to quash the same as illegal.

2. The case of the prosecution, as reflected in the First Information Report and the final report, is that on 23.03.2019, the petitioners along with 3 others, who are the By-election candidates belonging to the Amma Munnetra Kalagam, had allegedly gathered near Vilathikulam Bus Stand and organized huge crowd of their party people by their vehicle and also intercepted the public and without obtaining permission exploded crackers. On the basis of the complaint given by a police official, the respondent police registered a case in Crime No.45 of 2019 for the alleged offences under Sections 143, 283 and 286 of IPC.



3. Upon completion of investigation, a final report was filed before the learned Judicial Magistrate, Vilathikulam and the same was taken on file as S.T.C.No.770 of 2021.

4. 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.

5. 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 disclose an unlawful assembly, as the first petitioner was a candidate of Amma munnetra Kalagam in the election and the petitioners had gathered for election campaign among the general public. Therefore, the essential ingredients of Sections 143 of IPC is not maintainable.



6. Further the learned counsel for the petitioners submitted that (i) since no public was affected ; (ii) no intention of causing danger to the public or (iii) obstruction to the public, the offence under Section 283 of IPC would not attract.

7. Further, he would submit that there was no proof to show that the petitioners bursted crackers in the alleged scene of occurrence and that public were affected. Therefore, no case is made out under Section 286 of IPC also.

8. It is further argued that the allegations in the charge sheet 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.

9. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent police submitted that based on the complaint received, the respondent police registered the FIR and final report has also been filed in this case. According to him, the petitioners have an effective remedy of participating in the investigation rather than seeking quashing at this stage.



10. I have considered the submissions of both sides and perused the materials placed on record. A careful reading of the FIR and the final report reveals that no specific overt act has been attributed to the petitioners. There is no allegation of violence, obstruction, public nuisance or disturbance.

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 286 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.

13. In view of the authoritative pronouncements cited by the petitioners, and considering the facts of the present case, this Court finds that the



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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 charge sheet in STC No.770 of 2021 on the file of learned District Munsif cum Judicial Magistrate Court, Vilathikulam, Thoothukudi District and the FIR in Crime No. 45 of 2019 on the file of the first respondent police are quashed insofar as the petitioners are concerned. Consequently, the connected miscellaneous petitions are closed.

02.01.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No

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To
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- 1.The Judicial Magistrate, Vilathikulam.
- 2.The Inspector of Police,
Vilathikulam East Police Station,
Thoothukudi District.
(Crime No.45 of 2019)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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