



Crl.OP(MD)No.21388 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2025

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD).No.21388 of 2025

and

Crl.MP(MD)No.21388 of 2025

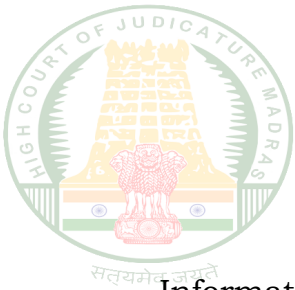
1.Kalanithimaran	... Accused No.2
2.Sathishkumar	... Accused No.3
3.Rajamathan	... Accused No.4
4.Hari	... Accused No.5
5.Manika Moorthi	... Accused No.8
6.Balamurugan	... Accused No.10
7.Prasanth	... Accused No.12 / Petitioner

Vs.

State of Tamil Nadu,
rep. through The Sub Inspector of Police,
K.Pudur Police Station,
Madurai District.
(Crime No.428 of 2025)

... Respondent /
Complainant

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, 2023, to call for the entire records pertaining to the First



Crl.OP(MD)No.21388 of 2025

Information Report in crime No.428 of 2025 on the file of the respondent police, and quash the same, in so far as the petitioners are concerned.

For Petitioner : Mr.Niranjana S.Kumar

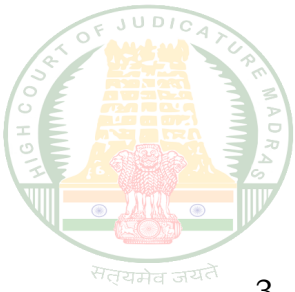
For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records relating to the First Information Report in Crime No.428 of 2025 on the file of the respondent police and to quash the same insofar as the petitioners are concerned.

The brief facts leading to the filing of this petition are as follows:

2. The respondent police registered a case in Crime No.428 of 2025 for the alleged offences under Sections 189, 389, 5 and 85 of the Bharatiya Nyaya Sanhita, 2023, corresponding to Sections 145, 151 and 283 of the Indian Penal Code. A total of 85 persons have been named as accused in the said crime number. The petitioners herein are arrayed as Accused Nos.82 to 85, 10 and 812, 828, 283, 848, 586, 8, 10 and 812 in the said FIR.



Crl.OP(MD)No.21388 of 2025

WEB COPY

3. The FIR was registered on 10.08.2020 alleging that the petitioners, who belong to Hindu Munnani, had participated in a protest which, according to the prosecution, was unlawful. Aggrieved by the registration of the FIR, the petitioners have approached this Court with the present petition seeking to quash the same.

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 alleged protest was conducted peacefully and that peaceful expression of opinion 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. It is further contended that on the very same day, at the same venue, the respondent police granted permission to one Religious Harmony Group to conduct their protest. However, when the petitioners requested similar permission, the same was arbitrarily denied without any justification. This selective permission,



Crl.OP(MD)No.21388 of 2025

WEB COPY

according to the petitioners, amounts to hostile discrimination and violates Article 14 of the Constitution of India.

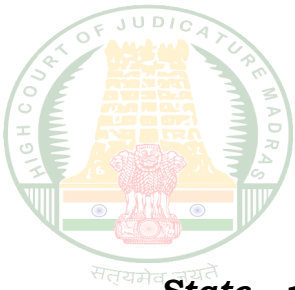
6. The learned counsel for the petitioners submitted that the FIR does not contain any specific overt act attributable to any of the petitioners. The complaint does not whisper any material to show that the petitioners indulged in violence, caused disturbance, annoyance or obstruction to any public authority or to the general public. Therefore, the essential ingredients of Sections 145, 151 and 283 IPC are not disclosed.

7. 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.

8. The learned counsel placed reliance on the following decisions:

Balasubramanian and Others vs. State and Others¹,
Crl.O.P.(MD) No.11533 of 2023; ***Jeevarathinam and Others vs.***

¹ *MANU/TN/4515/203*



Crl.OP(MD)No.21388 of 2025

**State represented by Inspector of Police and Another²,
Crl.O.P.No.16707 of 2021; *Javed Hajam vs. State of Maharashtra
and Another³.***

9. These judgments reiterate that peaceful assembly and expression cannot attract the penal provisions unless specific overt acts satisfying the ingredients of the offence are made out.

10. 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 that the investigation is in its nascent stage. According to him, the petitioners have an effective remedy of participating in the investigation rather than seeking quashing at this stage.

11. I have considered the submissions of both sides and perused the materials placed on record. A careful reading of the FIR reveals that no specific overt act has been attributed to the petitioners. The FIR merely alleges that the petitioners participated

2 2018 (2) MLJ (Crl) 606

3 2024 Supreme Court 187



Crl.OP(MD)No.21388 of 2025

WEB COPY

in a protest organised by their political organisation. There is no allegation of violence, obstruction, public nuisance or disturbance.

12. 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 recognised democratic right, and criminal prosecution cannot be launched unless the alleged act squarely falls within the ingredients of a penal offence.

13. The allegation of selective permission, wherein the respondent police permitted another group to protest but denied permission to the petitioners, *prima facie* indicates discriminatory action. Such arbitrariness offends Article 14 of the Constitution.

14. The ingredients of Sections 145, 151 and 283 IPC are not made out in the FIR. Section 145 IPC requires joining or continuing in an unlawful assembly after it has been commanded to disperse.



Crl.OP(MD)No.21388 of 2025

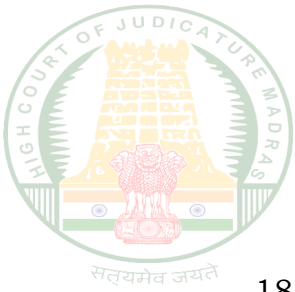
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Section 151 IPC requires knowledge or intention of committing a cognizable offence, Section 283 IPC requires actual obstruction or danger caused to the public. None of these requirements are satisfied on a plain reading of the FIR.

15. 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.

16. 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.

17. 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.



Crl.OP(MD)No.21388 of 2025

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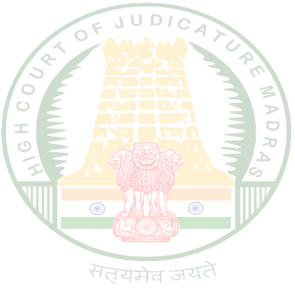
18. In the result, the Criminal Original Petition is allowed. The FIR in Crime No.428 of 2025 on the file of the respondent police is quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petition is closed.

03.12.2025

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

To

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



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Crl.OP(MD)No.21388 of 2025

L.VICTORIA GOWRI, J.

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CRL OP(MD)No.21388 of 2025

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