

T.Murugan vs The Inspector Of Police on 26 February, 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2025

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2505 of 2025

and

Crl.M.P(MD) No.1723 of 2025

1. T.Murugan
2. S.Palavesam
3. G.Ganesan
4. E. Moorthi@ Senthilganesh
5. V. Raja
6. Sudalaimani
7. P.Maharajan
8. E.Balaji
9. A. Paramasivam
10. T.Kumar

Vs.

1. The Inspector of Police
Thalaiyuthu Police Station
Tirunelveli District
2. S.Punniyamoorthy
Special Sub Inspector- 2027
Thalaiyuthu Police Station
Tirunelveli District

PRAAYER : Criminal Original Petition filed under Section 528 of BNSS to call for records pertaining to the impugned First Information Re Crime No.354 of 2024 dated 30.07.2024 on the file of the first resp for the alleged offence under Sections 189(2) and 285 of BNS Act an quash the same as illegal.

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<https://www.mhc.tn.gov.in/judis>

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For Petitioners

: Mr.I.Pinaygash

For Respondents

: Mr.M.Vaikkam Karunani

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.354 of 2024 dated 30.07.2024 on the file of the first respondent police.

2. The learned counsel appearing for the petitioners would submit that the first respondent police has registered a case against the petitioners in Crime No.354 of 2024 for the offences under Sections 189(2) and 285 of BNS. The second respondent/defacto complainant lodged a complaint before the respondent police stating that while he was on duty as many as 120 male persons and 90 women under the leadership of the petitioner conducted dharna and sit-in protest at Thathanuthu Village to agitate for the permission given to the private quarry in the agricultural land without getting permission. Infact the petitioners have not committed any offences as alleged by the prosecution. The petitioners are shown as A1 to A10 and they are no way related to this offence. There is no any illegal activities and no any public nuisance. But without application of mind the <https://www.mhc.tn.gov.in/judis> (Uploaded on: 03/03/2025 07:34:01 pm) First Information has been registered for the offences under Sections 189(2) and 285 of BNS and they conducted dharna and sit-in protest without causing any disturbance and assemble of members in a peaceful manner is per right under law and no any public lodged complaint. Therefore the pending First Information Report is liable to be quashed.

3. The learned counsel appearing for the petitioner relied on the following judgments:

a) Jeevanantham and others .vs. The Inspector of Police,Velayuthapuram Police Station, Karur District and another reported in 2018-22 L.W.(Crl.)606

b) K.Sathaiya and others .vs. The Inspector of Police, Arimalam Police Station, Pudukottai District in Crl.O.P(MD) No.75 of 2025

4. The learned Government Advocate(Crl.Side) appearing for the respondents would submit that these petitioners along with others in the village assembled and made protest by causing hindrance to the public. Further they did not obtain any permission from the appropriate authorities, therefore they committed offences under Sections 189(2) and 285 of BNS, hence they registered the First Information Report. <https://www.mhc.tn.gov.in/judis> (Uploaded on: 03/03/2025 07:34:01 pm)

5. Heard both sides and perused the materials available on record.

6. According to the petitioners the respondent police has registered a case in Crime No.354 of 2024 for the offences under Sections 189(2) and 285 of BNS and there are no ingredients available to constitute the offence and there is no any unlawful assembly and there is no any common object to commit the illegal act. They only proceeded in a peaceful manner without breaching any rule, therefore the offence under Section 285 of BNS would not attract.

7. This Court also perused the entire materials. On a careful perusal of the First Information Report the petitioner along with others have assembled and conducted demonstration in a public place and there is no any mention about common object. If the object of the assembly is not unlawful the offence under Section 189(2) of BNS would not attract Therefore in order to attract the offence under Section 189(2) there is no any unlawful assembly and there are no any ingredients to constitute the offence.

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8. So far as offence under Section 285 of BNS is concerned there are no ingredients to constitute the offence and the averments in the First Information Report would not constitute the above said offence.

9. At this juncture, the learned counsel appearing for the petitioner relied on the following judgments:

a) Jeevanantham and others .vs. The Inspector of Police,Velayuthapuram Police Station, Karur District and another reported in 2018-22 L.W.(Crl.)606

b) K.Sathaiya and others .vs. The Inspector of Police, Arimalam Police Station, Pudukottai District in Crl.O.P(MD) No.75 of 2025.

10. On careful perusal of the above said judgments it is clear that when the assembly of persons were expressing dissatisfaction on the governance and claiming for minimum rights that are guaranteed to an ordinary citizen and if such an assembly of persons are to be trifled by registering an FIR under Section 143 of IPC and now equivalent to Section 189(2) of BNS and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.

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11. In the case on hand the petitioners agitated for grant of licence for quarrying in the quarry in a peaceful manner and no any complaint lodged by any public and no any public movement curtailed. To attract the offence under Section 189(2) of BNS there is no any mention that these petitioners formed unlawful assembly with a common intention to resist the execution of any law or of any legal progress. Further the said dharna did not cause any public nuisance to anybody. More over there is no unlawful assembly to do the illegal act with common intention. In view of the above discussions, this Court is of the opinion that the pending First Information Report is liable to be quashed.

12. Accordingly the Criminal Original Petition stands allowed and the First Information Report in Crime No.354 of 2024 dated 30.07.2024 on the file of the first respondent police is hereby quashed. Consequently connected miscellaneous petition stands closed.

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

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

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P.DHANABA

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