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H.C.P.No.1599 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	29.08.2025
<i>Pronounced on</i>	02.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE V.LAKSHMINARAYANAN

H.C.P.No.1599 of 2025

S.Vijay

...Petitioner

Vs.

1.The Commissioner of Police,
No.132, Commissioner Office,
EVK Sampath Road,
Vepery, Chennai – 600 007

2.The Inspector of Police,
G2, Periyamedu Police Station,
Chennai – 600 003.

...Respondents

For Petitioner : Mr.Ramesh Umapathy

Respondents : Mr.J.Ravindran, AAG
assisted by
Mr.R.Muniyapparaj, APP
and Mr.Santhosh, GA (Crl.)



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ORDER

WEB COM **M.S.RAMESH,J.**

From 01.08.2025 onwards, a large number of sanitary workers in Zone-V and Zone-VI of Greater Chennai Corporation had been staging protest/demonstration in the vicinity of the Ripon Building, where the Greater Chennai Corporation Office is housed. About 13 practising Lawyers/Law students have been allegedly rendering legal assistance to the protesters.

2. In a Public Interest Litigation filed in W.P.No.30607 of 2025, seeking for issuance of a Writ of Mandamus for clearing the agitators from the pavements/platforms outside the Ripon Building, the Hon'ble First Bench of this Court, through order dated 13.08.2025, had *inter alia*, observed thus:-

“..... 3. While the right of the second respondent to lodge peaceful protest cannot be denied, the second respondent is also obliged to ensure that the agitation is peaceful and without violating the laws of the land.

..... 5. We may further observe here that all restraint shall be exercised by the law enforcing agency while ensuring that the pavements/pathways/roads are not allowed for organising and staging protest.”



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WEB COPY 3. It is alleged that on the same day, around midnight of 13.08.2025, 13 Lawyers/ Law students, who had allegedly gone to the agitation spot for rendering legal assistance, were taken into illegal custody by the respondents/Police and their whereabouts were not known. It is further alleged that though the Hon'ble First Bench, through its order dated 13.08.2025, had granted liberty to the Police to exercise restraint to disperse the protesters from public places, the alleged assaults on the Lawyers/Students was much after the Police had dispersed the protesters and when they were in their custody. With these allegations, the present Habeas Corpus Petition has been filed to direct the respondents to produce all the 13 named detainees, who are in unlawful custody, before this Court and set them at liberty.

4. It was the case of the petitioner that the detention of the 13 persons was illegal, to which the learned Additional Advocate General for the respondents represented that some of these detainees had assaulted a woman constable, apart from causing damages to public transport buses. He also circulated the video clippings in support of his statement. The video clippings, though has not captured any assault on the woman



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constable, shows certain minor damages to a public bus, which apparently was after the detenues as well as about 900 and odd protesters' arrest. On this *prima facie* view, we had passed an interim order on 14.08.2025 to forthwith release the detenues, which order reads as follows:-

“As per the averments made in this Habeas Corpus Petition, it is stated that the respondents-Police have forcefully arrested a group of Sanitary Workers, who were staging a protest outside the Chennai Corporation Building. According to the petitioner, some of the Lawyers and Law College Students, who were present at the protest place, were found missing and their whereabouts were not known. The details of these missing Lawyers/Students are as follows:-

- i. Mr.K.Bharathi, Enrl.No.M/s.1711/2003 – Advocate*
- ii. Mr.K.Suresh, Enrl.No.M/s.1554/2006 – Advocate*
- iii.Mr.Mohan Babu, Enrl.No.M/s.5082/2022 – Advocate*
- iv.Mr.R.Raj Kumar, Enrl.No.M/s.2323/2018 – Advocate*
- v. Ms.Aarthi, Enrl.No.M/s.2529/2015 – Advocate*
- vi.Mr.Muthuselvan – Law Student*
- vii.Ms.Valarmathi – Law Student*
- viii.Mr.Sunil Kumar – Law Student*
- ix.Mr.Dhanasekar – Law Student*
- x. Mr.Mukesh Kannan – Law Student*
- xi.Mr.Ashwin Kumar – Law Student*
- xii.Mr.Senthil Kumar – Law Student*
- xiii.Mr.Gopi – Law Student*

2.Claiming that the aforesaid



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Lawyers/Students are under illegal detention/custody, the petitioner seeks for a direction to the respondents to produce the detainees and set them at liberty.

3.The learned Additional Advocate General contended that this agitation has been going on for quite sometime and on 13.08.2025, the Hon'ble First Bench of this Court had passed an order in W.P.No.30607 of 2025, by holding that the Sanitary Workers, though have a right to lodge peaceful protest, cannot exercise their right by protesting in the pavements/pathways/roads and accordingly had observed that all restraint shall be exercised by the law enforcing agency while ensuring that the pavements/pathways/roads are not allowed for organising and staging protest.

4.Insofar as the claim of the petitioner that 5 Lawyers and 8 Law Students were missing is concerned, he had submitted that the concerned Police have registered 7 First Information Reports in F.I.R.Nos.422 to 427 of 2025 by the G2-Periamet Police Station and F.I.R.No.310 of 2025 by the D2-Anna Salai Police Station, in which 4 Lawyers, namely K.Bharathi, K.Suresh, Mohan Babu and R.Raj Kumar and 2 Law Students, namely Muthuselvan and Valarmathi, were arrayed as accused and they have also recorded their arrest. Insofar as the remaining one Lawyer, namely Aarthi, and 6 Law Students, namely Sunil Kumar, Dhanasekar, Mukesh Kannan, Ashwin Kumar, Senthil Kumar and Gopi, they were enquired and allowed to leave.

5.According to the learned Additional Advocate General, the 6 arrested persons were accused of having committed the offences under Sections 191, 191(3), 125, 121(1), 126(2), 132, 324(4), 351(3) of Bharatiya Nyaya Sanhita (BNS), 2023 r/w Section 3(1) of The Tamil Nadu Public Property (Prevention of Damage and Loss) Act.



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6. When we sought for the materials/evidences, which the concerned Police possessed with which they had reasons to believe that these 6 persons may have committed cognizable offences, he produced a copy of the accident register of a woman constable attached to the All Women Police Station, Thousand Lights, as well as a few video clippings, alleging that the accused persons had indulged in certain acts attracting the offences.

7. In the accident register, it is recorded that the patient had suffered a simple injury on the right hand and it is recorded therein that the woman constable was assaulted by unknown persons. Incidentally, the Police have arrested 930 persons, which includes the 6 persons for whom the present Habeas Corpus Petition has been filed and the accident register does not specifically implicate these detenues.

8. With regard to the video clippings produced before us, the Police claim that all the persons named in the F.I.Rs had caused damages to public transport buses, which has been captured in the video clippings. We had viewed the clippings in which we find that the glass doors of the buses, which displayed a board stating 'MTC Police' were damaged.

9. On a prima facie view, the persons accused of having caused rioting were arrested and confined inside the buses. In other words, the Police appear to have already arrested the accused and the damage to the buses seems to have happened later.

10. At this juncture, the learned Additional Advocate General submitted that since the Habeas Corpus Petition has been moved by way of a lunch motion, he was not in a position to produce other materials to substantiate the registration of F.I.Rs and therefore sought for time.

11. In the light of our above observations, we are of the prima facie view that the detention of 4



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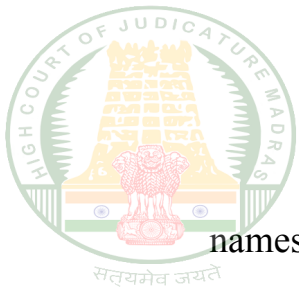
Lawyers and 2 Law Students by the Police may be unlawful. It is also brought to our notice that all the arrested persons have not been produced before the concerned Magistrate's Court for remand.

12. Accordingly, the respondents are directed to forthwith release the detenues, namely K.Bharathi, K.Suresh, Mohan Babu, R.Raj Kumar, Muthuselvan and Valarmathi, on condition that the petitioner herein or the aforesaid 6 persons shall not give any press interviews or statements or post anything in the social medias with regard to the issue in hand, till the next date of hearing.

13. Call the matter on 21.08.2025.”

5. During the course of next hearing on 21.08.2025, the interim order granted on 14.08.2025 was extended by another four weeks and the matter was adjourned.

6. On 29.08.2025, the learned Additional Advocate General clarified that a total of 12 FIRs have been registered later by the Chennai police, with regard to various offenses that took place in connection with the protest of the sanitary workers, in Crime Nos.417 of 2025, 420 of 2025, 422 to 427 of 2025 by G2-Periyamedu Police Station, Chennai, 310 and 311 of 2025 by D2-Anna Salai Police Station, Chennai, 44 of 2025, C1-Flower Bazaar Police Station, Chennai and 292 of 2025 by the J3-Guindy Police Station, Chennai, against the 13 detenues, whose



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names have been referred to in our interim order dated 14.08.2025

WEB COPY (extracted supra) and several other demonstrators.

7. Insofar as the arrest of the detenues are concerned, the Police have recorded the arrest only in Crime No.423 of 2025 for various offences, predominantly for unlawful assembly. The learned Additional Advocate General also filed a memo of the Joint Commissioner of Police, Greater Chennai Police-East Zone, Egmore, Chennai, dated 28.08.2025, with details of offences in Crime No.423 of 2025. As per the memo, among the 13 detenues mentioned therein, the offence against Ms.Aarthy, Advocate, as well as Ms.Valarmathi, Law Graduate were under Sections 126(2), 296(b), 118(1), 121, 132, 265 and 351(3) of BNSS, apart from Section 41 of TNCP Act for abusing, assaulting and giving life threat to a Government servant on duty.

8. The learned counsels appearing for the petitioner, as well as the detenues Aarthy and Valarmathi, opposed the submissions of the learned Additional Advocate General and denied of any assault on the woman police constable, but claimed that the detenues, namely Ms.Aarthy and Ms.Valarmathi were brutally attacked by several women Police



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Personnel for several hours, which resulted in one of them falling unconscious. Ms.Aarthy also alleged that she was admitted as an in-patient at the Government Hospital for 3 days for internal bleeding of the brain. Ms.Aarthy has filed a duly sworn in affidavit dated 21.08.2025 with the averments touching upon their statements made to us.

9. The learned Additional Advocate General stated that insofar as the other complaints are concerned, the Police will strictly adhere to Section 35 of the BNSS. He states that the Police Officer will issue summons to the accused in terms of Section 35(3), if the necessity arises, and will thereafter proceed in terms of the said Section. However, he claimed that the prayer in the present Habeas Corpus Petition has become infructuous, since the 13 detenues have been released. He also submitted that the Police will investigate into the FIRs registered against all the protestors, including the detenues before this Court and file a final report.

10. While recording his statement on Section 35 of BNSS, we do not endorse the later part of the submission of the learned Additional Advocate General that the prayer in the Habeas Corpus Petition has



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become infructuous. The claim of the petitioner is that the

respondents/Police had unlawfully and illegally detained the detenues.

After arriving at a *prima facie* conclusion, we had ordered for temporary release of the detenues and their main claim that the detention was unlawful, so as to set them at liberty, is yet to be determined. Such a final decision can be arrived only after the respondents file their counter affidavit.

11. Though it is alleged that the detainee Ms.Aarthy was admitted in a Government Hospital as an in-patient for 3 days and her name is also recorded in the accident register, no complaint has been registered on this. On the other hand, a complaint against some of the detenues for allegedly assaulting and abusing the Police Personnel has been registered. The truth behind these allegations and counter allegations gains significance, since further adjudication on the petitioner's claim that the detenues were unlawfully detained is yet to be made. The legality of the arrest can be gone into at a later stage. While the Police are entitled to arrest persons for infraction of laws, they are certainly not entitled to assault those who have been arrested. The Hon'ble First Bench had specifically directed that the Police must exercise all restraint to



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disperse the protesters. Ms.Aarthy and Ms.Valarmathi allege that they had been brutally beaten to the extent of both of them becoming unconscious and one of them being admitted in a Government Super Specialty Hospital and treated as in-patient for 3 days, while the other is still under medication. This certainly requires an independent inquiry to be conducted. An alleged assault by the Police Officer cannot be investigated by the very Police, who have registered the FIR, as there is a possibility of partiality or bias. At the same time, the real fact that had taken place in the wee hours of 14.08.2025 also requires to be unfolded, for us to arrive at a final conclusion on the allegation of unlawful and illegal detention made by the petitioner in this Habeas Corpus Petition.

12. For this purpose, we hereby request Hon'ble Mr.Justice V.PARTHIBAN (Retd.), Madras High Court, to act as a fact finding One Man Commission on the following issue:-

“Whether the detenues were assaulted by the Police, post their arrest?”

13. The Member Secretary, Tamil Nadu Legal Services Authority, Madras High Court Campus, in consultation with the Hon'ble One Man



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Commission, shall provide a suitable hall for conducting the inquiry. The Registrar (Administration), Madras High Court, shall take steps to provide sufficient support staff to the Hon'ble One Man Commission for the purpose of the inquiry.

14. It would be desirable if the Hon'ble One Man Commission can submit a report as expeditiously as possible.

15. The Government of Tamil Nadu, through the Commissioner of Police/first respondent, shall pay an initial honorarium of Rs.2,00,000/- to the Hon'ble One Man Commission forthwith.

16. The respondents are granted liberty to file their counter affidavit in the main Habeas Corpus Petition by the next date of hearing.

17. Call the matter on 17.09.2025.

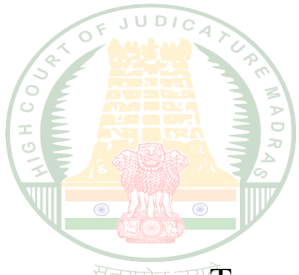
(M.S.R,J.) (V.L.N,J.)
02.09.2025

Index: Yes/No

Speaking order/Non-speaking order

hvk

Note: Issue order copy on 02.09.2025



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To
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1.The Commissioner of Police,
No.132, Commissioner Office,
EVK Sampath Road,
Vepery, Chennai – 600 007

2.The Inspector of Police,
G2, Periyamedu Police Station,
Chennai – 600 003.

3.The Public Prosecutor,
High Court of Madras.

Copy to

1.The Member Secretary,
Tamil Nadu Legal Services Authority,
Madras High Court.

2.The Registrar (Administration),
Madras High Court.



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AND
V.LAKSHMINARAYANAN,J.

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Pre-delivery order made in
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02.09.2025