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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.M.C. 1337/2026**

C.V.M.P. EZHILARASAN

.....Petitioner

Through: Mr. Amit Anand Tiwari, Sr. Advocate
with Mr. Vivek Singh, Ms. Saumya
Saraswat, Ms. Saushkriya, Advocates.

versus

STATE OF NCT DELHI THROUGH SHO

.....Respondent

Through: Ms. Richa Dhawan, APP for the
State.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **23.03.2026**

CRL.M.A. 5351/2026

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed-of.

CRL.M.C. 1337/2026 & CRL.M.A. 5350/2026 (stay)

By way of the present petition filed under section 528 of the Bharatiya Nagarik Suraksha Sanhita 2023 ('BNSS'), the petitioner seeks quashing of case FIR No.32/2025 dated 06.02.2025 registered under section 223(a) of the Bharatiya Nyaya Sanhita, 2023 ('BNS') at P.S.: Parliament Street, New Delhi, and all consequential proceedings arising therefrom.

2. Mr. Amit Anand Tiwari, learned senior counsel appearing for the petitioner submits, that their challenge to the subject FIR is premised on the following two grounds:



- 2.1. *First*, that the ingredients of the offence under section 223(a) of the BNS are not made-out; and
 - 2.2. *Second*, that in any case, the FIR could not have been registered on an allegation of an offence under section 223(a) of the BNS in view of section 215(1)(a)(i) of the BNSS.
3. Substantiating the first ground of challenge, learned senior counsel submits, that the brief factual matrix of the matter is that the petitioner, as Secretary of the Students Wing of the Dravida Munnetra Kazhagam ('DMK') party, had sought permission from the concerned police and administrative authorities for organising a peaceful demonstration at Jantar Mantar, New Delhi on 06.02.2025 against the then introduced new UGC Draft Guidelines, 2025.
4. It is submitted, that though some paperwork had been undertaken by the petitioner with the concerned SHO and the Commissioner of Police, no final word was received by the petitioner in writing from the administrative authorities; but at a meeting between the Members of Parliament of DMK and the Commissioner of Police held on 05.02.2025, the latter had granted oral permission to the petitioner to conduct the peaceful demonstration; and had directed the SHO, P.S.: Parliament Street, New Delhi, to provide necessary arrangements and police protection.
5. Mr. Tiwari points-out however, that it later transpired, that on the date and time when the demonstration was held, the Model Code of Conduct was in operation; and, unbeknownst to the petitioner, prohibitory orders under section 163 of the BNSS were in force in that area.



6. It is pointed-out that on a perusal of the FIR, it would show that the petitioner is alleged to have committed the offence under section 223 of the BNS, namely the offence of disobedience of an order promulgated by a public servant; and the order that is alleged to be the subject of disobedience was an order purported to have been promulgated under section 163 of the BNSS.
7. It is argued, that section 163 of the BNSS requires an order to be issued by the District Magistrate or the Sub-Divisional Magistrate or an Executive Magistrate (specially empowered) in writing, directing a person to abstain from a certain act, to prevent obstruction, annoyance or injury to any person lawfully employed or to prevent danger to human life, health or safety or disturbance of public tranquility, riot or affray.
8. It is argued, that no order under section 163 of the BNSS was ever passed as required in writing, nor was any such order served upon the petitioner as required under section 153 of the BNSS. Besides, it is argued that section 223 of the BNS requires that the person against whom the offence is invoked should have *knowingly* disobeyed such order, *lawfully promulgated; and if the disobedience causes or tends to cause* obstruction, annoyance or injury, or the risk thereof, to any person lawfully employed or to prevent danger to human life, health or safety or disturbance of public tranquility, riot or affray.
9. In any event, learned senior counsel submits, that *mere* disobedience of an order promulgated by a public servant is *not*, in and of itself, an offence under section 223(a) of the BNS, since a bare reading of the provision would show that it is necessary that such disobedience *causes*



or tends to cause obstruction, annoyance or injury, *or risk of* obstruction, annoyance or injury, to any person lawfully employed or to prevent danger to human life, health or safety or disturbance of public tranquility, riot or affray, *none of which is even alleged to have happened in the present case.* It is argued that a perusal of the subject FIR would itself show, that there is no allegation that the peaceful protest held by the petitioner and his associates caused any obstruction, annoyance, or injury, or the risk of any of it.

10. In support of his submissions, learned senior counsel has drawn attention to a decision of a Division Bench of this court in ***Bhoop Singh Tyagi vs. State***,¹ to point-out that ingredients of the offence under section 188 of the Indian Penal Code, 1860 [corresponding to section 223 of the BNS] have been parsed-out in the said decision, where the court has clarified that for alleging that a person has disobeyed an order of a public servant, it must be shown that the person had knowledge of such order; and that the disobedience caused, or there was risk that it would cause, obstruction, annoyance, or injury as referred-to above.
11. Learned senior counsel submits, that in view of the run of events as narrated above, the petitioner could not be attributed to have had any knowledge that he was disobeying any lawfully promulgated order.
12. In support of his second contention, senior counsel argues, that the factual matrix apart, section 215(1)(a)(i) of the BNSS clearly precludes a court from taking cognizance of the offence *inter-alia* under section

¹ 2002 SCC OnLine Del 277



223 of the BNS *except* on a complaint in *writing* of the concerned public servant or of an administrative subordinate of such public servant.

13. In support of this submission, learned senior counsel draws attention to the decision of the Supreme Court in ***C. Muniappan & Ors. vs. State of Tamil Nadu***² and of a Co-ordinate Bench of the Madras High Court in ***Jeevanandham & Ors. v. State rep. by Inspector of Police & Anr.***,³ to submit that on a combined reading of the said decisions, it is evident that where a court is not empowered to take cognizance of an offence under section 223(a) of the BNS [corresponding to section 188 of the IPC] in view of the bar contained in section 215(1)(a)(i) of the BNSS [corresponding to section 195(1)(a)(i) of the Code of Criminal Procedure, 1973] without a complaint in writing by the concerned public servant, the police also cannot register an FIR under section 223(a) of the BNS, regardless of the fact that the offence in itself may be cognizable.
14. Attention is drawn to the relevant portion of the decision of the Supreme Court in *C. Muniappan*, which reads as follows :

*“33. Thus, in view of the above, the law can be summarised to the effect that there must be a complaint by the public servant whose lawful order has not been complied with. The complaint must be in writing. **The provisions of Section 195 CrPC are mandatory. Non-compliance with it would vitiate the prosecution and all other consequential orders.** The court cannot assume the cognizance of the case without such complaint. **In the absence of such a***

² (2010) 9 SCC 567

³ 2018 SCC OnLine Mad 13698



complaint, the trial and conviction will be void ab initio being without jurisdiction.”

(emphasis supplied)

15. Furthermore, the relevant portion of the decision of a Co-ordinate Bench of the Madras High Court in *Jeevanandham* reads as follows :

“20. Therefore, it is very clear from the above judgments that there must be a complaint by a public servant, who is lawfully empowered, whose lawful order has not been complied with. The provisions of Section 195 of Cr.P.C are mandatory and non-compliance, with it, will make the entire process void ab initio, being without jurisdiction.”

“21. The submission of the learned Additional Public Prosecutor to the effect that Section 188 of IPC is a cognizable offence, and therefore, the Police Officer is entitled to proceed under Section 154, 156 and 157 of Cr.P.C, is not sustainable. **The offence being cognizable by itself, does not enable the Police Officer to register an FIR for an offence under Section 188 of IPC. The reason being, such registration of an FIR has to necessarily end with a Police Report under Section 173(2) of Cr.P.C, which is specifically barred under Section 195 of Cr.P.C. The definition of a complaint under Section 2(d) of Cr.P.C. itself makes it clear that a complaint does not include a Police Report. The Hon’ble Supreme Court has gone to the extent of saying that such a Final Report, which is taken cognizance will make the entire proceedings void ab initio which would necessarily mean that the registration of the FIR for an offence under Section 188 of IPC will also become void.**”

(emphasis supplied)

16. It is argued, that as enunciated by the learned Single Judge of the Madras High Court, the registration of an FIR would necessarily end in the filing of a police report, the cognizance of which is barred under section 215(1)(a)(i) of the BNSS.



17. Learned senior counsel submits, that on both the aforesaid counts, the subject FIR could not have been registered; and no investigation can be carried-on.
18. Issue notice.
19. Ms. Richa Dhawan, learned APP appears on behalf of the State on advance copy; accepts notice; and seeks time to file status report.
20. Let status report be filed within 06 weeks; rejoinder thereto, if any, be filed within 04 weeks thereafter; with copies to the opposing counsel.
21. Re-notify on 12th August 2026.
22. On a *prima-facie* view of the matter, considering the arguments made and the judicial precedents cited, and in particular in light of the provision of section 215(1)(a)(i) of the BNSS, further investigation and proceedings in case FIR No.32/2025 dated 06.02.2025 registered under section 223(a) of the BNS at P.S.: Parliament Street, New Delhi, shall remain *stayed*, till the next date of hearing before this court.

ANUP JAIRAM BHAMBHANI, J

MARCH 23, 2026

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