



CrI.O.P(MD).No.6241 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On: 28.03.2023

Delivered On : 17.04.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

CrI.O.P(MD).No.6241 of 2020

and

CrI.M.P.(MD)No.3254 of 2020

1.Ananth
2.Panjakalyani

...Petitioners

Vs

1.The Inspector of Police,
Thirupalaikudi Police Station,
Ramanathapuram District,
Ramanathapuram.
(Crime No.63 of 2020)

2.Anwarali

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the First Information Report in Crime No.63 of 2020 dated 11.03.2020 on the file of the respondent no.1 for offence under Section 143, 147, 341, 294(b) and 506(ii) of IPC and Section 3 of Tamil Nadu Property (Prevention of Damage & Loss) Act and quash the same as illegal as against the petitioner alone.

For Petitioners

: Mr.T.Lajapathi Roy, Senior Counsel
For Mr.S.Rajasekar

For 1st Respondent

: Mrs.M.Aasha
Government Advocate (CrI. Side)

For 2nd Respondent

: No Appearance



CrI.O.P(MD).No.6241 of 2020

ORDER

WEB COPY This petition is filed to quash the FIR in Crime No.63 of 2020 dated 11.03.2020 on the file of the first respondent.

2.The allegation against the petitioners is that on 10.03.2020, when the defacto complainant was working as a Sub Contractor in L & T Company, Thermal Power Plant, Uppur, Ramanathapuram, the petitioners and 150 others persons restricted the defacto complainant and other workers and they restricted the lorry, which were transporting sand from dumping yard to construction site of L&T company. A case in Crime No.63 of 2020 under Sections 341, 143 and 147 of IPC was registered against the petitioners and others.

3.On the side of the petitioners, it is stated that to take action against Section 141 of IPC, there must be some criminal force or show of criminal force. There is no other ingredients to attract an offence under Section 141 of IPC. It was only a protest by fisherman and local villagers. Hence, Section 143 of IPC also is not attracted. Section 143 of IPC is a punishment for unlawful assembly. Only more than 5 persons form into assembly that can be considered as unlawful assembly. In this case, three persons said to have formed the assembly and hence, the offence under Section 143 of IPC was not



Crl.O.P(MD).No.6241 of 2020

made out. When there is no force of violence used by the unlawful assembly, there cannot be an offence under Section 143 of IPC. From the FIR, it is clear that the petitioners along with 150 school children protested by ECR road and they never used criminal force and the offence under Section 146 of IPC is not made out. The petitioners conducted peaceful agitation and they have not indulged in any offence. The offence under Section 341 of IPC is not made out.

4. On the side of the petitioners, it is stated that TANGEDCO has approved to construct a thermal power plant with a capacity of 1600 MW super critical coal fired thermal power project in Uppur, Ramanthapuram. The Uppur thermal power plant is being constructed by BHEL, L & T and Reliance infrastructure under the contractual obligation. The project began in the year 2016 and was supposed to be completed in 2019. This is exactly located in the belt of Palk Bay and Gulf of Mannar. The Palk Bay is one of the India's major sediment sectors. It is a shallow sea floor, where currents from Bay of Bengal and Gulf of Mannar settle sediments into Palk Bay. This Palk Bay is the biggest fishing spot in South India and is having a highly productive ecosystem. It has 302 species of marine algae, 580 species of fishes, five of marine turtle species and 11 sea grass species and several species of



CrI.O.P(MD).No.6241 of 2020

mangroves. The Bay is very much exposed to sea pollution caused mainly by the contractors, who were constructing a bridge for the purpose of drawing sea water. The sea water is used as coolant in generator in thermal power plant.

5.On the side of the petitioners, it is stated that a bridge was constructed towards sea with Savudu soil and due to the order of stay by this Court in W.P. (MD)No.20903 of 2016 dated 28.08.2019, the contractors started to quarry waste and soil, which was already dumped in violation to CRZ-IB Zone and dumped them into the sea belt for constructions of the bridge. They get the sewage soil from Survey No.407 in Uppur village, RS Mangalam Taluk, Ramanathapuram District.

6.This land is exactly situated in CRZ-IA and B Zone where these waste soil and sewage waste were dumped by one of the contractor, while drilling piles for their foundation to thermal power plant in violation to CRZ (Coastal Regulation Zone) Rules. For which, the petitioner and others made a representation to the concerned officials on 15.09.2019. Due to construction work done by the contractors, piles of marine living organism were washed away to the shores recently. Especially dugong (sea cow), sea cucumber, small fishes and sea turtle, which are all endangered species were dead and washed



CrI.O.P(MD).No.6241 of 2020

away to shores. The petitioners demonstrated the protest to show their dissatisfaction against the contractors, who are dumping waste and soil into the sea to construct a bridge, which cause huge damage to sea ecosystem and there was no traffic conjunction or any public hindrance and prayed the FIR to be quashed.

7.On the side of the petitioners, it is stated that no action was taken against the second respondent under the Wild life Protection Act for killing the rare species of sea live and sea creatures and plantations. Instead of taking action against the second respondent, the first respondent has filed cases against the village people for demonstrating agitation. Already connected FIR in Crime No.63 of 2020 was quashed by this Court, by an order dated 07.03.2022.

8.On the side of the prosecution, it is stated that since the vehicle involved is private vehicle, the charge under Section TNPPDL Act was removed by the first respondent. 150 villagers were there in the occurrence place. After investigation, it was found out that only 12 persons involved in the offence and a chargesheet was filed and the chargesheet was not yet taken on file so far.



Crl.O.P(MD).No.6241 of 2020

9.A perusal of the records reveals that on 15.09.2019, a representation was made regarding the pollution in CRZ Zone. Only on 03.02.2020 and 13.02.2020 and 13.03.2020, the complaints were given to the Superintendent of Police regarding the pollution. It is seen that two FIRs were registered on 11.03.2020. 150 persons including ladies and children were involved in the agitation. The copy of the photographs were annexed with the typed set of paper which reveals that dugong (sea cow), sea cucumber, small fishes and an sea turtle were found dead near the construction site, which clearly reveals that there was some damage to the sea ecosystem. But instead of taking action against the person, who had caused pollution in the sea ecosystem, the Police has registered a case against the agitators, who are the villagers. Already connected FIR in Crime No.62 of 2020 was quashed by this Court. Chargesheet was filed but the chargesheet was not yet taken on file.

10.In the above circumstances, it is decided that this case is a fit case to be quashed. The FIR in Crime No.63 of 2020 on the file of the first respondent is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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

17.04.2023



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CrI.O.P(MD).No.6241 of 2020

To

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



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Crl.O.P(MD).No.6241 of 2020

R. THARANI,J.

Mrn

Crl.O.P(MD).No.6241 of 2020

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