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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.6455 of 2023

and

Cr1.MP(MD)Nos.5655 and 5656 of 2023

- 1.Mohamed Fysal @ Mohamed Faizal
- 2.Mohamed Shareef @ Mohamed Shariff
- 3.Kulam Usuan @ Gulambhussain
- 4.Mohamed Halieth @ Mohamed Halith
- 5.Mohamed Faruk @ Mohammed Farook : Petitioners/A1 to A5

Vs.

State rep. by Sub Inspector of Police,
Kumbakonam West Police Station,
Thanjavur, Tamil Nadu-612 001. : Respondent/Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in STC No.2763 of 2019 on the of the Judicial Magistrate No.I, Kumbakonam and quash the same as against the petitioners.

For Petitioners : Mr.A.Raja Mohamed

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking quashment of the case in STC No.2763 of 2019 on the of the Judicial Magistrate No.I, Kumbakonam.

2.The case of the prosecution in brief:-

On 04/01/2016 at about 05.00 pm, a member of the Association called 'Papular Friends of India' assembled in the place of occurrence and staged demonstration and protest against the Government Policy introduced to the citizenship Act. They also burnt notification issued by the Government. Upon which, a case in Crime No.525 of 2016 was registered for the offences under sections 147, 188 and 285 IPC. After completing the formalities of investigation, final report was filed and it was taken on file in STC No.2763 of 2019 by the Judicial Magistrate No.1, Kumbakonam.

3. Seeking quashment of the same, this petition has been filed.



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4. Heard both sides.

5. At the outset, it can be stated that what has been protested by the petitioners is nothing, but their invocation of the right to make the protest, which is guarantee of democratic rights. So there can be no objection on that line. But here, the above said Association or Organization has been banned by the Government of India, Ministry of Home Affairs, New Delhi, by issuing Notification, dated 27th September, 2022.

6. Any criminal action seeking quashment of the protest that has been undertaken by them before banning, according to the petitioner, is not a bar. The very maintainability of the petition by a banned Organization is now under challenge. When a particular Association has been banned as illegal Association, then they cannot maintain any petition for quashment of the occurrence, that said to have been taken place earlier to the date of banning. On that account, this petition itself is not all maintainable without referring to the other aspects.



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7. In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

26/04/2023

Index: Yes/No
Internet: Yes/No
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To,

1. The Judicial Magistrate No.1,
Kumbakonam.
2. The Sub Inspector of Police,
Kumbakonam West Police Station,
Thanjavur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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