



CrI.O.P.(MD)No.12574 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

CRL.O.P.(MD)No.12574 of 2023

and

CRL.M.P.(MD)Nos.9839 and 9842 of 2023

1.Kalimuthu

2.Bharathi Raja

3.Jayabalan

4.Arun Shori

5.Thayalan

6.Johnson

7.Sathishkumar

8.Kalingan

9.Arunakiri

10.Senthil Kumar

11.Haseef

12.Thangapandi

... Petitioners / A1 to 5 and 7 to 13

Vs.

1.The State represented by

Inspector of Police,

Alangudi Police Station,

Alangudi, Pudukkottai District.

(Crime No.175 of 2009)

2.Gunasekaran

..Respondents



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PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, praying this Court to call for the records pertaining to the case in C.C.No.76 of 2019 on the file of the learned District Munsif Cum Judicial Magistrate, Alangudi, Pudukkottai District and quash the same against these petitioners.

For Petitioners : Mr.R.Narayanan

For R1 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed seeking to quash the case in C.C.No.76 of 2019 on the file of the learned District Munsif Cum Judicial Magistrate, Alangudi, Pudukkottai District registered against the petitioners for the offences under Sections 147, 504 and 505(2) IPC.

2.It is submitted by the learned counsel for the petitioners that the Accused No.6 has filed a quash petition in CRL.O.P.(MD)No.6272 of 2023, where under this Court, vide order dated 20.04.2023, quashed the proceedings in C.C.No.76 of 2019 in respect of the Accused No.6. Since the petitioners before this Court are also similarly placed persons, the petitioners/Accused Nos.1 to 5 and 7 to 13 also sought for quashment of the case against them.



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3.Perused the grounds urged by the petitioners in this petition seeking quashment and also the orders of this Court dated 20.04.2023 made in CRL.O.P.(MD)No.6272 of 2023. The case of the prosecution is that on 25.04.2009 at about 07.00 p.m., when the defacto complainant along with the police personnel were on patrol duty in connection with parliament elections, all the accused including the petitioners herein have raised slogans and issued pamphlets against the political leaders, who are supporting the Srilankan Army for killing the innocent Tamil people in Srilanka. On the basis of the above said occurrence, *suo motu* complaint was registered in Crime No.175 of 2009 for the offences under Sections 147, 504 and 505(2) IPC and on completion of the investigation, charge sheet is filed against the petitioners herein and other accused in C.C.No.76 of 2019 on the file of the learned District Munsif Cum Judicial Magistrate, Alangudi, Pudukkottai District.

4.On going through the materials on record, it is clear that there is no reason to show that the petitioners have used force, thereby important ingredient of Section 146 IPC is found missing. Similarly, there is no any overt act in the charge sheet to show that the petitioners intentionally have either made any damage to any public or private properties. Even according to the



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prosecution, the petitioners were raising slogans and issuing pamphlets. It is not the case that the accused persons have breached the peace of the society.

5.Further, in order to attract the offence under Section 505(2) IPC, the prosecution is expected to make out that the accused belonging one group, should have either published or circulated any statement or report creating enmity between the groups. In the case on hand the petitioners were raising slogans in respect of killing of Tamil people in Srilanka, which is not in Indian territory. Therefore, Section 505(2) IPC is also not attracted.

6.The facts, which were taken into consideration by this Court while allowing the quash petition in CRL.O.P.(MD)No.6272 of 2023, are also similar to this petition. Further, the order dated 20.04.2023 passed by this Court in CRL.O.P.(MD)No.6272 of 2023 has become final. Moreover, the prosecution did not state anything as to how the allegation levelled against the petitioners herein are different than the allegations levelled against the person, whose case was quashed in CrI.O.P.(MD)No.6272 of 2023.

7.In view of the above discussions, this Criminal Original Petition is allowed. The proceedings in C.C.No.76 of 2019 on the file of the learned



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District Munsif Cum Judicial Magistrate, Alangudi, Pudukkottai District is hereby quashed as against these petitioners. Consequently, connected miscellaneous petitions are closed.

12.07.2023

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

Yuva
To

- 1.The District Munsif Cum Judicial Magistrate,
Alangudi, Pudukkottai District.
- 2.The Inspector of Police,
Alangudi Police Station,
Alangudi, Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN. J.

Yuva

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