



Crl.O.P.(MD)No.12026 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/12/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.12026 of 2023

and

Crl.MP(MD)No.9505 of 2023

Jennifer @ Jennifer
William

: Petitioner/A11

Vs.

The State rep. by its
Inspector of Police,
Kudankulam Police Station,
Tirunelveli District-627 104.
Crime No.349 of 2012

: Respondent/Investigating
Officer

Prayer: Criminal Original Petitions filed under Section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the case in in PRC No.83 of 2020 pending on the file of the Judicial Magistrate, Radhapuram, Tirunelveli District and quash the same against the petitioner herein.

For Petitioner : Mr M/s.L.P.Maurya

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)



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O R D E R

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This criminal original petition has been filed seeking quashment of the case in PRC No.83 of 2020 pending on the file of the Judicial Magistrate, Radhapuram, Tirunelveli District.

2.The allegation against the petitioner is that as a participant of the agitation against the Kodankulam Establishment of Atomic Power Plant, on 08/09/2012, the petitioner assembled unlawfully and constituted an unlawful assembly numbering about 5000 behind the Atomic Power Plant in the seashore area, advanced towards the Power Plant with an intention to destroy the plant and continued the agitation. In continuation of the above said protest, on 10/09/2012 at about 11.30 am, they advanced to the prohibited area by causing damage to the barricades and plastic barrels, preventive storage sand put up by the police and pelted stones and thrown chapels etc. on the police party. Finding that despite warning, the protesters refused to disperse, the police resorted to tear gas shells. During that process, the unlawful protesters damaged the vehicle bearing registration Nos.TN-72-G-0642 and TN-72-G-0857 belongs to the Police Department by using stones and sticks.



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3. So the petitioner along with other accused persons charged for the offences punishable under sections 147, 148, 149, 188, 332, 353, 355, 294(b), 307 and 427 of IPC r/w section 144 of Cr.P.C, section 3 of TNPPDL Act and section 13 of the Unlawful Activities Prevention Act, in Crime No.394 of 2012 and it has been taken on file in PRC No.83 of 2020 by the Judicial Magistrate, Radhapuram.

4. Heard both sides.

5. The learned counsel appearing for the petitioner would submit that the Coordinate Bench of this court in a batch of cases viz., Crl.OP(MD)Nos.2064 of 2020 etc., dated 13.03.2020 has observed that on the strength of mere omnibus statement recorded under Section 161 Cr.P.C, several persons roped in as accused; the accused has not rushed to the Court immediately; Continued pendency of the impugned prosecution constitutes an abuse of legal process; In this view of the matter, the impugned proceedings against some of the accused were stands quashed.

6. According to the learned counsel the petitioner, the observation made by the Coordinate Bench of this court equally applies to the facts and circumstances of



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these cases also. According to the learned counsel for the petitioner, at the time of agitation, the petitioner was not at all involved in the occurrence and without properly verifying the identity of the persons during the course of investigation, figuring about 5000 mass of people. No materials have been collected during the course of investigation to identify each and every person involved in the occurrence.

7.No doubt, in the final report, it has been stated that more than 5000 people involved in the occurrence including women and child, who assembled in the seashore area for making protest. Their aim was not to cause any damage to the public property or injury to anyone, much less than the police officials. It appears that it was a peaceful demonstration at one stage. But the later stage it went to uncontrollable. In that process, it appears that two vehicles belongs to the Police Department have been damaged.

8.No doubt that causing damage to the public property is a serious offence, which has to be properly tried. But at the same time, the circumstance under which the above said occurrence taken place must also be kept in mind.



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9.As mentioned earlier, it was a fear protest made by the villagers, fearing that if any new power plant is established, their life will become endangered. No doubt, this was a wrong apprehension in the minds of the villagers. That is why, the Hon'ble Supreme Court in the decision reported in the case of ***G.Sundarrajan Vs. Union of India [(2013) 6 SCC 640]*** has elaborately discussed and requested all the Governments to educate the people and take all necessary steps to remove the misapprehension in their minds. The Hon'ble Supreme Court requested all the Governments to drop the proceedings that has been initiated against the protestors. But even after a lapse of seven years, no step is taken to withdraw the criminal prosecution. A speedy trial is a fundamental right available to the accused persons.

10.Considering the facts of this case and as observed by this court in the batch of above said criminal original petitions, it is only a general allegation made against this petitioner. So continuation of the proceedings against the petitioner will amount to abuse of process of court and law.

11.In view of the above, these criminal original petition is **allowed** and accordingly, the entire



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proceedings in PRC No.83 of 2020 pending on the file of the Judicial Magistrate, Radhapuram is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes/No

Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Radhapuram,
Tirunelveli District.
- 2.The Inspector of Police,
Kudankulam Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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