

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

CrI.O.P.No.4479 of 2017
C.M.P.Nos.3362 & 3363 of 2017

K.N.Sekar

... Petitioner

V.

State by
The Inspector of Police
T1- Ambattur Police Station,
Chennai
(Crime No.779 of 2015)

.... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.172 of 2015 on the file of learned Judicial Magistrate, Ambattur in so far as the petitioner is concerned and to quash the same.

For Petitioner : Mr.K.Balu

For Respondent : Mr.P.Govindarajan, APP

O R D E R

This Criminal Original Petition has been filed by the petitioner to quash the proceedings in C.C.No.172 of 2015 pending on the file of learned Judicial Magistrate, Ambattur.

2.Heard both sides.

3.For an occurrence in which about 45 persons from various political parties had involved in unlawful assembly, the respondent police had charge sheeted the petitioner as well as others for an offence under Sections 143 & 188 of IPC. On a perusal of the complaint as well as the Section 161 statement and the charge sheet, it is not clear as to why the petitioner has been implicated in the absence of any specific overt act. Admittedly, there were 45 persons involved in the unlawful assembly, however, the respondent police had chosen to name only four persons.

4.It is no body's case that all the persons including the petitioner had assembled there for the purpose of show of a criminal force or a trespass or committing mischief etc. In other words, the petitioner and others seem to have assembled there peacefully without committing or attempting to commit any mischief, trespass or any other offence. In this regard, I am unable to comprehend as to how this could be termed as unlawful assembly under Section 141 of IPC.

5.Now that I have found that the petitioner and others had assembled in the place of occurrence peacefully which does not constitute the offence of unlawful assembly, the offence under Section 188 of IPC also will not be made out. One of the ingredients of Section 188 IPC is that the disobedience of an order promulgated by a public servant is to cause or tend to cause obstruction, annoyance or injury to any person. Since the assembly of the petitioner and the others are peaceful and that there was no offence of unlawful assembly made out, the offence under Section 188 IPC is also not made out. In view of the same, the Criminal Original Petition deserves to be allowed.

6.In the result, the Criminal Original Petition stands allowed. Consequently, the proceedings in C.C.No.172 of 2015 on the file of the learned Judicial Magistrate, Ambattur stands quashed. Consequently, connected miscellaneous petition is closed.

Assistant Registrar

Dt.8.11.17

//True Copy//

Sub Assistant Registrar

To

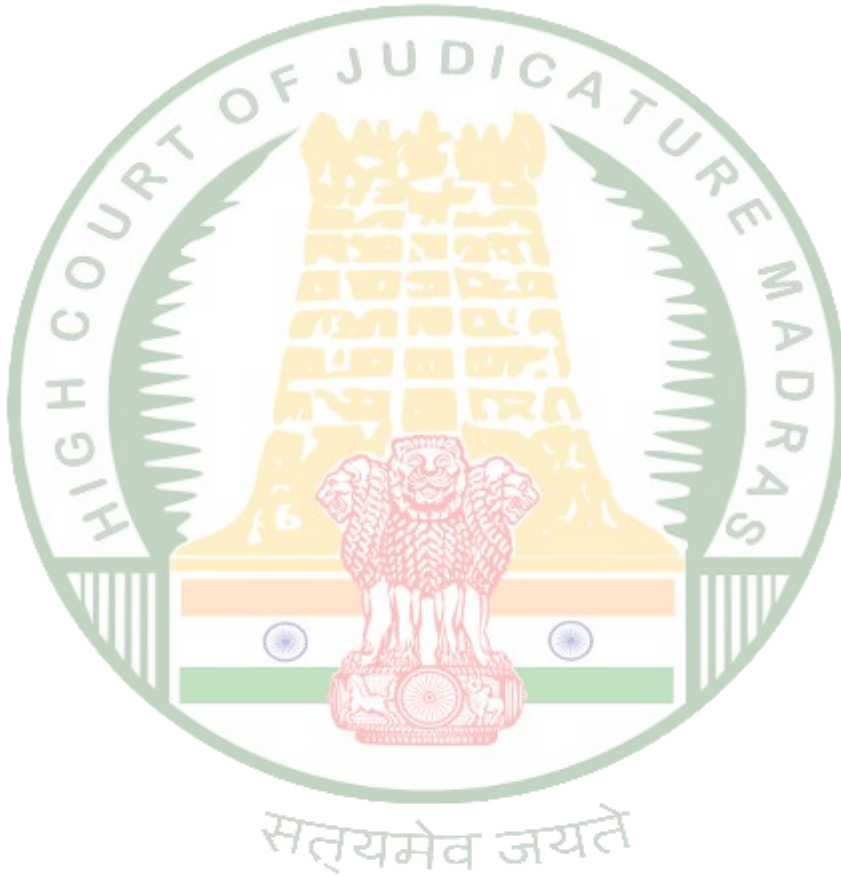
1. The Judicial Magistrate,
Ambattur
2. do thro' The Chief Judicial Magistrate,
Chennai.
3. The Inspector of Police
T1- Ambattur Police Station,
Chennai

4.The Public Prosecutor,
High Court, Madras.

+1 cc to Mr.K.Balu,advocate,sr.75388.

Kk(co)
krd 22/11

Crl.O.P.No.4479 of 2017
M.P.No.3362 of 2017



WEB COPY