

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.04.2017

CORAM

THE HON'BLE MR. JUSTICE M.V.MURALIDARAN

Crl.O.P.No.9041 of 2011

and

M.P.No.1 of 2011

1.Saravanan
2.Parveena
3.Jai Maruthi
4.Anbu
5.Venkatesan
6.Subramani
7.Velayutham
8.Suresh
9.Jalendiran

.. Petitioners

vs

The State Rep. by Sub Inspector of Police,
Kandili Police Station,
Vellore District.
(Crime No.41/2011)

.. Respondent

Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pending on the file of the learned Judicial Magistrate No.III, Thiruppathur, Vellore District in S.T.C.No.148 of 2011 and quash the Criminal proceeding.

For Petitioners : Mr.E.Kannadasan

For Respondent : Mr.B.Ramesh Babu
Govt. Advocate (Crl.Side)

ORDER

That the instant Criminal Original Petition is filed by the petitioners/accused 1 to 9 to quash the final report laid against them in S.T.C.No.148 of 2011 on the file of the Learned Judicial Magistrate No.3, Thiruppathur by invoking the inherent powers of this Court under Section 482 of Cr.P.C.

2.The case of the petitioners is that according to the version of prosecution on the alleged date of occurrence i.e on 29.01.2011 at 11.40 a.m. the petitioners herein and others unlawfully assembled with empty gas cylinders in Thiruppathur - Dharmapuri Road at Kaakankaarai bus stop opposite and thereby prevented the traffic and hence they committed offence punishable under Sections 143, 341 of IPC. Hence the complaint was lodged by the SSI of the respondent police station and FIR was registered against the petitioners in Crime.No.41 of 2011 on 29.01.2011. After investigation final report was filed against the petitioners for the charges of sections 143, 341 of IPC and the same was taken on file in S.T.C.No.148 of 2011. Challenging the same the petitioners herein are before this Court.

3.The Learned Counsel for the petitioners would submit that the petitioners have not at all committed any offences as alleged by the prosecution and the complaint against them by the respondent police is an ill motivated and with previous enmity. There is no specific overt act mentioned in the FIR as against the petitioners herein and also there is no specific overt act against the petitioners stated by the witnesses in Section 161 (3) of Cr.P.C. and in the charge sheet. Hence the Learned Counsel for the petitioners argued that no offence is made out as against the petitioners herein so as to attract the penal provision of sections 143, 341 of IPC. Therefore the Learned counsel prayed this Court to quash the impugned charge sheet.

4.Per contra, the Learned Government Advocate (Criminal side) argued that the petitioners herein have unlawfully assembled and prevented the traffic in Thiruppathur- Dharmapuri Road without any permission and hence they committed the offence and therefore the respondent police has rightly registered a case against them and after proper investigation found prima facie case is made out against the petitioners and laid the final report and the same cannot be quashed at the threshold without seeing the trial.

5.I heard Mr.E.Kannadasan, learned counsel for the petitioners and Mr.B.Ramesh Babu, learned Government Advocate (Criminal Side) for the respondent and the entire materials available on record are perused.

6.This is the case of unlawful assembly of the petitioners. According to the prosecution the petitioners herein along with others prevented the traffic by sitting in the middle of the road with empty gas cylinders and protested for non supply of

gas cylinders properly. In a democratic country, every people is having a right to assemble peacefully which has been guaranteed under Article 19(1)(b) of our Constitution, provided their gathering should not affect the right of others.

7. In the case on hand, the charge against the petitioners herein is that they unlawfully assembled and put the empty gas cylinders in the middle of the Thiruppathur - Dharmapuri Road and thereby restrained the public and traffic, hence they committed the above offence. Here, this Court is bound to see the object of assembly. In this case, the petitioners have assembled to raise their voice for non-supply of gas cylinders, which in my opinion cannot be termed as unlawful assembly. Further, for the said occurrence the respondent police would have dispersed the gathering/ crowd or they would have arrested the petitioners herein and to let of them in the evening by keeping them in a hall or a marriage hall, like in the case of arrest of politicians and other organizations, but without doing so the registration of FIR and filing charge sheet against them is unwarranted, in the considered opinion of this Court. Further Section 161(3) of Cr.P.C. statement is not forthcoming from any individual general public who said to have affected by the unlawful assembly of the petitioners herein. The complaint also lodged by the SSI of the respondent Police Station.

8. In such circumstances, this court is unable to believe the version of the prosecution and the charge sheet against the petitioners herein is unnecessary and the prosecution shall not waste the judicial time by registering in the nature of present case. Hence, I am inclined to allow this quash petition and accordingly this Criminal Original Petition stands allowed and quash the criminal proceedings in S.T.C.No.148 of 2011 pending on the file of the learned Judicial Magistrate No.III, Thiruppathur, Vellore District. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

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Sub Assistant Registrar

vs

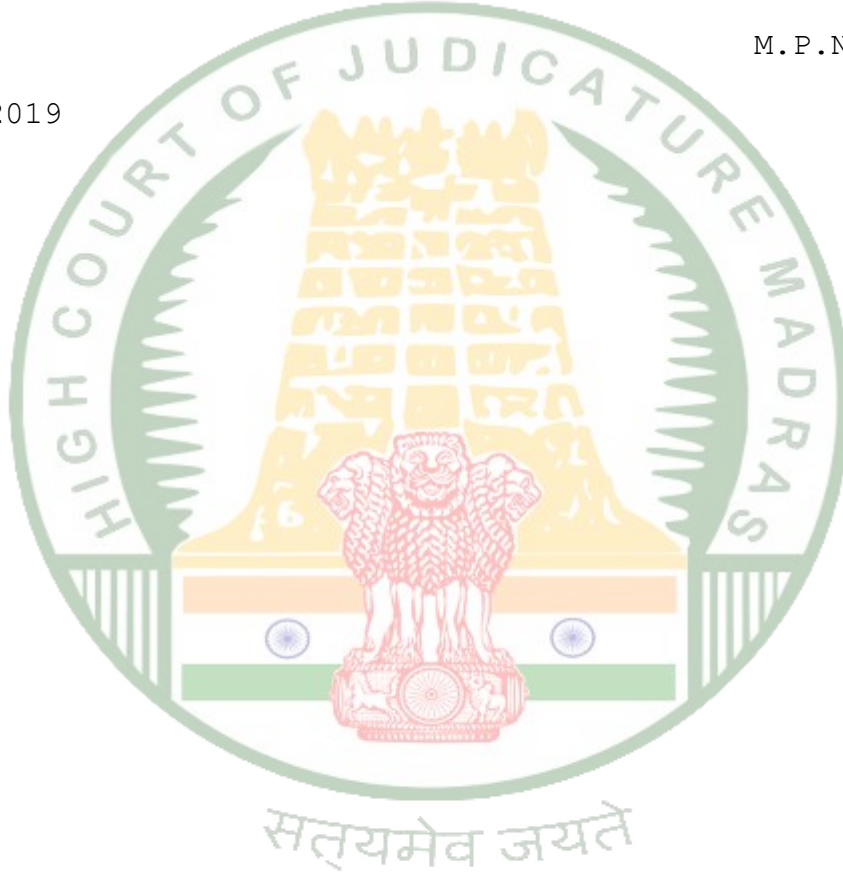
To

1. The Judicial Magistrate No.III,
Thiruppathur, Vellore District.
2. The Inspector of Police,
Kandili Police Station,
Vellore District.

+lcc to Mr.E.Kannadasan, Advocate, S.R.No.24395

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CS/09/01/2019



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