



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2017

CORAM:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Crl.O.P(MD)No.14496 of 2014

and

M.P(MD)No.1 of 2014

T.Edwin Joseph

... Petitioner

Vs.

1.The State

through the
Inspector of Police,
Sathur Town Police Station,
Sathur,
Virudhunagar District.
(Cr.No.896 of 2012)

...1st Respondent/Complainant

2.Kanthasamy

...2nd Respondent/Defacto Complainant

3.The Secretary,

Public Works Department,
Secretariat,
Chennai - 09.

4.The District Collector,
Virudhunagar District.

(R.3 & R.4 were impleaded suo motu as per the orders of this Court dated 28.08.2014 and 21.12.2016 made in Crl.O.P(MD)No.14496 of 2014.)

5.The National Highways Authority of India,
represented by its
Project Director,
Madurai.

... Respondents 3 to 5

ded suo motu as per the order of this Court dated 22.12.2016 made in Crl.O.P(MD)No.14496 of 2014.)

(R.5 was implea

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure, 1973, for the records in F.I.R in Cr.No.896 of 2012 on the file of the first respondent and quash the same.



For Petitioner : Mr.A.Haja Mohideen

For Respondents : Mr.A.P.Balasubramani
Govt. Advocate (Crl. Side) for R.1
R3 & R4

No appearance for R.2

Mr.G.R.Swaminathan,
Asst. Solicitor General of India for R.5

ORDER

The petitioner has challenged the F.I.R filed in Cr.No.896 of 2012 under Sections 143, 147, 151, 188, 341 and 353 I.P.C read with Section 3 of the TNPPDL Act.

2. The case of the prosecution is as follows:

2.1. On 10.12.2012, the second respondent who is the driver of the TNSTC bus bearing Registration No.TN-67-N-0460, drove the bus from Kovilpatti to Sattur (via) Elayirampannai and when the bus reached Sattur - Padandal Junction, there was a public stage demonstration on the road for the construction of a fly-over as frequent road accidents occurred in that locality. At that time, about 50 persons pelted stones on the TNSTC bus and caused damage to the tune of Rs.1,500/- (Rupees One Thousand and Five Hundred only). Therefore, the complaint was filed by the second respondent, which has been registered under the impugned F.I.R.

3. Mr.A.Haja Mohideen, learned Counsel for the petitioner would submit that the petitioner is doing furniture business and on that day, he went to Madurai for purchasing goods and when that is so, the police also included the name of the petitioner in the F.I.R as if he participated in the demonstration demanding construction of a fly-over/bridge at Thayilpatti Junction Highways which has been identified as Accident Prone Zone on 10.12.2012.

4. The petitioner would submit that though the petitioner was arrested after eight months on 29.08.2013, the name of the petitioner was not found in the F.I.R; assuming that the petitioner participated in the said demonstration, no overt act has been alleged against the petitioner and only 50 persons have been shown as accused in the F.I.R, viz., 16 named accused and 34 unnamed accused. The petitioner gave a complaint to the Superintendent of Police, Virudhunagar District, on 23.09.2013 for falsely implicating the petitioner and arresting him; since no action had been taken, the petitioner filed Crl.O.P.(MD)No.7171 of 2014 before this Court and obtained an order on 15.04.2014 based on the petitioner's representation dated 25.11.2013 given to the Superintendent of Police, Virudhunagar District.



5. It is also contended in this petition as well as the representation that the petitioner's name has been falsely implicated as he refused to pay bribe to the police for not including his name in the case and therefore, he seeks to quash the proceedings.

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6. On the other hand, Mr.A.P.Balasubramani, learned Government Advocate (Criminal Side) appearing for the first respondent would submit that during the protest, the glass panel of a bus worth about Rs.1,500/- (Rupees One Thousand and Five Hundred only) had been damaged and therefore, a case has been registered.

7. It is also submitted by the prosecution that the investigation was over and the charge sheet has been filed and it has been taken on file in P.R.C.No.24 of 2016 on the file of the learned Judicial Magistrate No.II, Sattur and the same has been committed to the Special Court, Srivilliputtur, Virudhunagar District and taken on file in S.C.No.208 of 2016. Hence, he would seek dismissal of this petition.

8. A perusal of the records would show that the public were protesting only against the non-construction of a fly-over/bridge which has been sanctioned by the Government at Padandal Junction at Thayilpatti, Sattur being identified as Accident Prone Zone.

9. The people protested against the non-construction of a fly-over/bridge only in the interest of the public. Moreover, it is alleged that stones were pelted and the glass panel of the bus worth about Rs.1,500/- (Rupees One Thousand and Five Hundred only) was damaged. That apart, the petitioner contended that he was not present at the spot and his name was not found in the F.I.R.

10. A perusal of the F.I.R would fortify the contention of the petitioner. The protest was conducted only on 10.12.2012, whereas the petitioner was arrested on 29.08.2013. Even in this regard, it is alleged by the petitioner that for non-payment of bribe amount as demanded by the police, he was arrested and remanded.

11. It is not understandable as to how the charge sheet was filed, especially, when this Court granted interim stay on 28.08.2014 and it was taken on file as P.R.C.No.24 of 2016 by the learned Judicial Magistrate No.II, Sattur and further committed to the Special Court, Srivilliputtur and taken on file as S.C.No.208 of 2016.

12. As already pointed out, the petitioner's name was not found and no overt act is alleged in the F.I.R and the protest is only for non-construction of a bridge and the alleged damage is only a small sum of Rs.1,500/- (Rupees One Thousand and Five Hundred only) and for that, a number of people have been made as accused unnecessarily. Therefore, the F.I.R as well as the

charge sheet and the proceedings against the petitioner in P.R.C.No.24 of 2016 on the file of the learned Judicial Magistrate No.II, Sattur, which was committed and taken on file as S.C.No.208 of 2016 on the file of the Special Court, Srivilliputtur, Virudhunagar District, is quashed. However, the petitioner is warned that no such allegation should be made against him in future.

13. While hearing the matter, this Court suo motu impleaded the respondents 3 to 5 and sought the details of the accidents which occurred in the said spot for the past 10 years and the Inspector of Police, Sattur Town Circle, Sattur Taluk, Virudhunagar District, gave the following details:

Year	No. of Persons lost their lives	No. of Persons got injured	Total Cases
2005	1	1	2
2006	2	-	2
2007	-	-	-
2008	-	-	-
2009	-	5	3
2010	7	21	19
2011	2	14	10
2012	1	7	8
2013	-	6	1
2014	1	5	5
Total	14	59	50

From the above, it is clear that number of accidents are occurring and many people are losing their lives and getting injured and therefore, the public demanded construction of a fly-over/bridge by way of a protest.

14. Mr.G.R.Swaminathan, learned Assistant Solicitor General of India appearing for the fifth respondent would submit that the National Highways Authority of India already in 2000 itself, Pedestrian Underpasses (PUP) was approved and in fact, the contract was awarded to a party, who failed to execute the contract and therefore, a cancellation notice was issued and the fifth respondent is going to award the contract to another contractor on priority basis. He has also filed a copy of the notice dated 24.05.2016 issued to M/s.Raima Toll Road Pvt. Ltd., Mumbai.

15. A perusal of the said notice would show that an agreement was entered into between the National Highways Authority of India and the said M/s.Raima Toll Road Pvt. Ltd., on 10.04.2013 itself



for the construction of various bridges and construction of Pedestrian Underpasses (PUP) and it has been described in the Concession Agreement between the National Highways Authority of India and M/s.Raima Toll Road Pvt. Ltd., [Volume - II (Schedules), April 2013], as follows:

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S.No.	Description	No./Chainage (in Km.)	Date of Completion
9.	Pedestrian Underpasses	At Km. 55.400 (Virudhunagar Collectorate), Km. 78.050 (Sattur bus stand).	365 days from COD.

From the above, it is clear that the work was already given and the said contractor failed to execute the contract and therefore, notice to terminate the contract was issued on 24.05.2016.

16. Since the learned Assistant Solicitor General of India submitted that the construction work will be awarded to a new contractor, the said statement/undertaking is recorded and the fifth respondent is directed to finish the construction within one year from the date of receipt of a copy of this order.

17. With the above directions, this Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

18. Before parting with this order, it has to be stated that the people should not be driven to the extent of staging a road roko or protest or any other form of agitation, which may eventually in many times end in violence as the mass psychology could not be ascertained. The authority concerned should have been very sensitive enough to act in time and should have taken appropriate remedial measures including the construction of bridges in the particular spot.

19. If any demand by the people is made, if not immediately, at least, within a reasonable period, either their lawful demand should be met or a decision should be taken and informed to the people. Otherwise, unnecessary protest, agitation and resultant violent acts including causing damage to the public properties and filing of cases could not be avoided. Therefore, the administration should be very sensitive and very responsible to live up to the expectations of the people and their reasonable demands.

Sd/
Assistant Registrar(CS-II)



To

1. Inspector of Police,
Sathur Town Police Station,
Sathur,
Virudhunagar District.

2. The Secretary to Government,
Public Works Department,
Secretariat,
Chennai - 09.

3. The District Collector,
Virudhunagar District.

4. The National Highways Authority of India,
represented by its
Project Director,
Madurai.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to M/S.A.Haja Mohideen, Advocate, SR.No. 5110

CrI.O.P(MD)No.14496 of 2014

and

M.P(MD)No.1 of 2014

30.01.2017

rsb

AM/JM/21.02.2017/6P/7C