



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.10.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP. (MD)No.13479 of 2017

and

CRL.M.P. (MD)No.9075 of 2017

Kajendhiran

... Petitioner/Accused No.1

Vs.

The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.
(Crime No.242 of 2017)

... Respondent/Complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to First Information Report in Crime No.242 of 2017 on the file of the respondent police, Virudhunagar East Police Station, Virudhunagar District, and to quash the same in so far as the petitioner alone.

For Petitioner	: Mr.R.Murugappan
For Respondent	: Mr.K.S.Durai Pandiyan, Additional Public Prosecutor.

O R D E R

This Criminal Original petition is filed for quashing the First Information Report in Crime No.242 of 2017 on the file of the respondent police, Virudhunagar East Police Station, Virudhunagar District, in so far as the petitioner alone.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3. The petitioner states that he is the first accused in the complaint. Stating that the petitioner and 19 others assembled unlawfully in front of the Tasmac Shop No.12054, at Allampatti, Near Kamaraj Statue, Virudhunagar and raised slogans demanding the State Government to close the Tasmac Shop, a case was registered in Crime No.242 of 2017. It is further alleged that the petitioner and others who were shown as accused in the First Information Report, have caused traffic nuisance at the place and that their assembly was against a prohibition order.



4. It is stated by the learned counsel for the petitioner that the First Information Report itself is self contrary as to the date of occurrence as per the First Information Report, as there was no consistency even with regard to the date of occurrence. While in the first page of the First Information Report, the date of occurrence is stated to be on 18.04.2017, where as in the body of complaint it is stated that the petitioner and others unlawfully assembled, on 17.04.2017 at 12.00 noon. The contents of the First Information Report only discloses that the petitioner and others have assembled unlawfully and raised slogans against the State Government to close the Tasmac Shop. It is further stated that they have caused nuisance to the public.

5. The case was registered, because the order passed by the Deputy Superintendent of Police under Section 30(2) of Tamil Nadu Police Act was in force. The case was registered for the offences under Sections 143 and 188 I.P.C. The intention and object of the petitioner and others in gathering in front of Tasmac shop shouting slogans for closing the Tasmac Shop cannot be described as an unlawful assembly. Our Constitution gives protection to the citizens' the freedom of expression and to organize the protest meeting.

6. In such circumstances, this Court is of the view that the complaint does not disclose any cognizable offence as against the petitioner. Though the case was also registered for the offences under Sections 143 and 188 I.P.C., on the ground that the Deputy Superintendent of Police has passed an order under Section 30(2) of Tamil Nadu Police Act, it has been repeatedly held by this Court in several Judgments that the provisions of the Police Act is meant to regulate and not to prohibit such protest meeting or assembly for expressing their protest flows from freedom of expression. It is to be noted that the protest meeting is only for closing the Tasmac Shop which according to the petitioners is objectionable and causing nuisance to the residents in the locality.

7. In such circumstances, this Court is of the view that the First Information Report in Crime No.242 of 2017 is liable to be quashed. Though it is stated that the Charge Sheet has been filed on 17.04.2017, it is admitted that the same was returned for some defects. In such circumstances, this Court has no hesitation to quash the First Information Report as against the petitioner. Hence, the Criminal Original petition is allowed. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)



To

1. The Inspector of Police,
Virudhunagar East Police Station,
Virudhunagar District.

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

+1cc to Mr.R.Murugappan, Advocate Sr.No.81736

PMU

VB/KK/SAR3/26/10/2017/3P/4C

CRL.OP. (MD) No.13479 of 2017
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