



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE **P.N.PRAKASH**

WEB COPY

Crl.O.P.(MD)No.2405 of 2017andCrl.M.P.(MD)No.1891 of 2017

Ashik Hussain

: Petitioner/6<sup>th</sup> Accused

Vs.

1. The Inspector of Police,  
Palani Town Police Station,  
Palani, Dindigul.

: 1<sup>st</sup> Respondent/Complainant

2. Mr.P.Sekar,  
The Inspector of Police,  
Ayakudi Police Station,  
Palani, Dindigul.

: 2<sup>nd</sup> Respondent/De-facto  
Complainants

**Prayer** : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the Charge Sheet in S.T.C No.740 of 2013 on the file of the learned Judicial Magistrate, Palani and quash the same.

For Petitioner

: Mr.A.Mohamed Yusuf

For Respondents

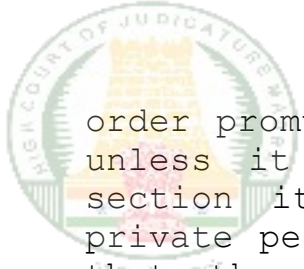
: Mr.K.Anbarasan

Government Advocate (Crl.side)

**O R D E R**

It is the case of prosecution that while provisions of Section 30(2) of Police Act, banning processions and assemblies, were in force, the accused with 44 others had assembled near Gandhi Road, Town Bus Stop on 12.04.2013 around 20.15 hours and indulged in causing obstruction to free flow of vehicular movement in the public road. They were arrested under Section 151 Cr.P.C and were later released on bail. Thereafter, the present prosecution has been filed against the petitioner, who is the 6<sup>th</sup> Accused in S.T.C. No.740 of 2013 for offences under Sections 147, 341 and 188 of the Indian Penal Code before the learned Judicial Magistrate, Palani, challenging which, the petitioner is before this Court.

2.Strong reliance has been placed on the judgment of the  
<https://hcservices.courts.gov.in/hcservices/> Supreme Court in the case of Bachuram v. State, (AIR 1956  
Cri LJ 515), wherein, it is stated that mere disobedience of an



order promulgated by a public servant is not in itself an offence unless it entails one or other of the consequences which the section itself mentions. That apart, it is contended that no private persons had lodged any complaint and there is no material that the petitioner and others had indulged in any untoward incident and in the considered opinion of this Court, when there are prima facie materials in the chargesheet, disputed questions of fact cannot be gone into in a quash application.

3. The fact that there was prohibitory orders under Section 30(2) of the Police Act will have to be proved during the trial and the presence of the accused will also have to be identified by the witness, it is too premature to hold that there are no materials on record for the prosecution to proceed.

4. As regards the offence under Section 188 of the Indian Penal Code, this Court is of the view that provisions of Section 195(a)(i) of Cr.P.C will apply, for which, there should be a complaint before the Court by a public servant. A final report cannot be filed for the said offence.

5. In the result, this quash application is partly allowed and charge under Section 188 of the Indian Penal Code is hereby quashed. However, the trial can go on with regard to other offences in the chargesheet. Consequently connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,  
Palani.
2. The Inspector of Police,  
Palani Town Police Station,  
Palani, Dindigul.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Order made in  
CrI.O.P. (MD) No.2405 of 2017  
Dated:20.04.2017