



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.10.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.(MD)No.18495 of 2018

and

CRL.M.P.(MD)No.8238 of 2018

1.Eshwaran
2.Muthumuniyandi
3.Pandian
4.Manimurugan
5.Bose
6.Anand

..Petitioners/Accused No.1 to 6

-Vs-

State rep. by
The Sub Inpsector of Police,
Narikudi Police Station,
Virudhunagar District.

..Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records in connection with S.T.C.No.892 of 2018 on the file of the Judicial Magistrate, Aruppukottai, Virudhunagar district and quash the same.

For Petitioner : Mr.S.Poornachandran

For Respondents: Mr.M.Chandra Sekaran

Additional Public Prosecutor

ORDER

This Criminal original Petition has been filed seeking to quash the proceedings in connection with S.T.C.No.892 of 2018 pending on the file of the Judicial Magistrate, Aruppukottai, Virudhunagar District.

2.The respondent police after investigation have filed the final report against the petitioners for the offences under Sections 279, 143, 188, 353 and 109 of IPC and Section 179 of M.V. Act.

3.The learned counsel for the petitioners would submit that the final report filed for the offences under Sections 188 and 143 is not sustainable in view of the judgment passed by this Court in Crl.O.P.(MD) No.1356 of 2018, dated 20.09.2018.



4.The learned counsel for the petitioner would further submit that the allegation made in the final report is that the petitioners have driven the vehicle in reckless manner and have disrupted the functioning of the public officials at the check post. According to the learned counsel for the petitioner even if the allegation is taken as it is, no offence has been made out under Section 353 of IPC, since there is no force, criminal force or assault that was made against the public servant. Therefore, the offence under Section 353 IPC cannot be maintained in this case.

5.The learned counsel for the petitioners would further submit that the offences under section 109 IPC is also not maintainable since even according to the prosecution all the petitioners together have indulged in the commission of the offence.

6.The learned counsel for the petitioner would further submit that at the best the allegations made in the final report will *prima facie* attract the provisions of Section 179 of Motor Vehicles Act. The learned Additional Public Prosecutor submits that the attitude of the petitioners at the time when the alleged occurrence is said to have taken place has to be taken into consideration by this Court.

7.This Court carefully considered the submissions made on either side. The proceedings insofar as the offences under Sections 188 and 143 of IPC will have to fall in view of the judgment of this Court in CrI.O.P.(MD).No.1356 of 2018, dated 20.09.2018. This Court is in agreement with the arguments of the learned counsel for the petitioner to the effect that the materials available on record do not constitute an offence under Section 353 and 109 IPC.

8.On the allegations made in the final report and the statement collected by the respondent police, there are *prima facie* materials to constitute the offence under Section 279 of IPC and Section 179 of the Motor Vehicles Act. This Court does not want to make the petitioners to face a trial for these two offences, since these two offences are minor in nature and directing the petitioners to pay a fine will be sufficient in order to dispose of the case.

9.In the result, the proceedings before the Court for the offences under Sections 143, 188, 353 and Section 109 of IPC is hereby quashed. Since there are *prima facie* materials against the petitioners for the offences under Section 279 IPC and Section 179 of the M.V.Act, this Court deems it fit to direct the petitioners to pay a cost of Rs.2,500/- to the credit of the Chief Justice (Payable in Accounts Section of the High Court Registry), within a period of one week from the date of receipt of a copy of this order. In view of the same, the proceedings before



the Court below in S.T.C.No.892 of 2018 is hereby quashed.

10. Accordingly, this Criminal Original Petition is disposed of with the above directions. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS-III)

To

- 1.The Judicial Magistrate, Aruppukottai, Virudhunagar.
- 2.The Sub Inpsector of Police, Narikudi Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Copy to:

The Section Officer,
Accounts Section, Madurai Bench of Madras High Court, Madurai.

+ 1 CC TO MR.S.POORNACHANDRAN, ADVOCATE IN SR NO.90876

TM

BU/PM/SAR-III:02.11.2018 : 3P/6C

CRL.O.P. (MD)No.18495 of 2018
12.10.2018