



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1. OP (MD)No.16667 of 2013
and
MP(MD)No.2 of 2013

Dr.K.Krishnasamy

... Petitioner/Accused No.1

Vs.

1.State rep by the Inspector of Police,
Tallakulam Police Station,
Madurai City.
(Crime No.266 of 2013)

...Respondent/Complainant

2.T.Balaguru

... Respondent/De facto Complainant

Prayer : This Criminal Original Petition is filed Under Section 482 of Criminal Procedure Code to call for the records relating to Cr.No.266 of 2013 pending on the file of the respondent police and quash the same.

For Petitioner : Mr.Shanmugasundaram,
Senior Counsel for Mr.Ravi

For Respondent : Mr.Robinson,
Govt. Advocate for R1

No appearance for R2

ORDER

The petitioner is a founder of a political party known as Puthiya Thamilaagam. The petitioner took part in a function in connection with the death anniversary of late Immanuel Sekaran held on 11.09.2013. The police had stipulated a ceiling limit in respect of the number of cars that can follow him in a convoy. This was violated. Therefore, the impugned F.I.R was registered for the offences under Sections 149, 153 (A) (1) (b), and 188 IPC and Section 39 r/w 192(A) of Motor Vehicles Act. Section 141 of IPC defines what is an unlawful assembly. The assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing the assembly would fall under any of the five categories set out in Section 141 of IPC.



2. In this case, it is seen that the object of the petitioner and other members of the group was only to take part in a death anniversary and there was no unlawful object as such. Therefore, Section 143 of IPC will not be attracted in this case.

3. As regards Section 188 of IPC, there must be violation of an order duly promulgated by a public servant. But, disobedience per se will not attract Section 188 of IPC. It must be shown that on account of such disobedience on the part of the petitioner of a duly promulgated order by a public servant, something adverse happened. In this case, no such event is alleged to have happened. This Court is of the view that Section 188 of IPC also cannot be attracted. As regards the other offences, there are no materials or averments in the impugned F.I.R. Therefore, the impugned F.I.R is quashed.

4. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Tallakulam Police Station,
Madurai City.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

SKM
DS/SKN-RSK/SAR-4 :28.06.2018: 2P/3C

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