

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.08.2019

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.OP No.3128 of 2018
and
CrI.MP.Nos.1329 & 1330 of 2019

1.Mr.Matchan @ Abubacker Siddik
2.Mr.Sheik Mohaideen
Mr.Abdul Malik
Mr.Sarthar
5.Mr.Palkara Mydeen @ Ahamed Mydeen
6.Mr.Raj Mohamed ...Petitioners
.Vs.

1.The State rep.by
The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
2.The Sub Inspector of Police,
Muthupettai Police Station,
Tiruvarur. ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in STC No.1136 of 2014, pending on the file of the Judicial Magistrate, Thiruthuraipoondi, Tiruvarur and to quash the same.

For Petitioners : Mr.I.Abdul Basith

For Respondents : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings in STC No.1136 of 2014, pending on the file of the learned Judicial Magistrate, Thiruthuraipoondi, Tiruvarur.

2.The case of the prosecution is that the accused persons had formed into an unlawful assembly and without any prior permission, caused disruption to the general public and had prevented the respondent Police from performing their public duty.

3.The respondent Police on completion of the investigation had filed a final report for an offence under Section 143, 188, 353 and 504 of IPC.

4.Insofar as the offence under Section 143, 188 IPC is concerned, the final report is not sustainable in view of the judgment of this Court in Jeevanandham and Others .Vs. The Inspector of Police reported in [2018 2 LW (Cr1.) 606].

5.The learned counsel for the petitioners submitted that there is absolutely no ground to sustain the final report for an offence under Section 353 of IPC, since there was no criminal force involved even as per the allegations made in the Final Report. That apart, there are absolutely no materials to sustain the Final Report for an offence under Section 504 of IPC, since there is neither allegation nor any statement given by any of the witnesses to the effect that the accused persons had provoked or caused breach of peace in the locality.

6.The learned Additional Public Prosecutor submitted that the accused persons have indulged in such unlawful activities even during previous occasions and there are other cases pending against the accused persons. The learned counsel further submitted that since NBW is pending against some of the accused persons, there has been no progress in the proceedings before the Court below.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.In order to attract an offence of under Section 353 of IPC, the prosecution has to establish that there was any criminal force or an assault that was committed by the accused persons at the time of incident. In this case, the only allegation that is found against the accused persons is that they have all of sudden disrupted the traffic without any prior permission and conducted an agitation. This by itself, does not constitute an offence under Section 353 of IPC.

9.Insofar as the offence under Section 504 of IPC is concerned, the same will get attracted only where the accused persons intentionally insults and thereby provokes any person with an intention to cause breach of peace. The Final Report as well as the materials collected by the respondent Police does not in any way make out an offence under Section 504 of IPC.

10.In view of the above, the continuation of the proceedings against the petitioners is an abuse of process of Court. The proceedings have been pending from the year 2014 onwards and no useful purpose will be served by keeping the proceedings pending any longer.

In the result, the proceedings in STC No.1136 of 2014, pending on the file of the learned Judicial Magistrate, Thiruthuraipoondi, Tiruvarur, is hereby quashed, and accordingly this criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

KP

To

- 1.The Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
- 2.The Sub Inspector of Police,
Muthupettai Police Station,
Tiruvarur.
- 3.Judicial Magistrate,
Thiruthuraipoondi, Tiruvarur.
- 4.The Public Prosecutor,
High Court, Madras

+1cc to Mr.I.Abdul Basith, Advocate, S.R.No.66643

Cr1.OP No.3128 of 2018

RRS (29/08/2019)

सत्यमेव जयते
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