

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.2430 of 2019
and
Crl.M.P.No.1587 of 2019

Ashok @Anandan

...Petitioner

-Vs-

1.State by
The Inspector of Police,
Pallathur Police Station,
Sivagangai District.

2.A.V.Nagarajan

...Respondents

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to framing of charges in S.C.No.4 of 2019 on the file of the learned Special Court for trial of criminal cases related to elected MPs and MLAs of Tamil Nadu, Singaravelar Maaligai Complex, Chennai and quash the same insofar as the petitioner/accused No.22 concerned.

For Petitioner : Mr.B.Kumar
Senior Counsel
for Mr.S.Ramachandran

For R1 : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed challenging the framing of the charges against this petitioner by the Sessions Court, Sivagangai.

2. The petitioner has been arrayed as A24 in the final report filed by the respondent police for an offence under Sections 147, 148, 294(b), 341, 323, 324, 326, 506(ii), 307 of IPC and 3 of TNOPPD Act.

3. Mr.B.Kumar, learned Senior counsel appearing on behalf of the petitioner submitted that the Court below has adopted an omnibus method of framing charges as against all the accused persons without putting forth the relevant materials that are found against each of the accused persons. The learned counsel therefore submitted that the entire procedure that has been adopted by the Court below goes against the procedure contemplated under Sections 227 and 228 of Cr.P.C. The learned Senior counsel further submitted that a charge under Section 294 (b) has been framed against this petitioner even without there being any overtact attributed against the petitioner. That apart a charge for an offence under Section 147 of IPC has been framed against this petitioner merely on the ground that he was present in the scene of occurrence. The learned Senior counsel submitted that admittedly the place was a public road and it was election time and therefore many persons will be present in the scene of occurrence and that by itself will not make this petitioner a part of the unlawful assembly.

4. The learned Senior counsel therefore submitted that the entire procedure followed by the Court below in framing the charges, is vitiated and the same is to be interfered by this Court.

5. This Court also heard the arguments of Mr.M.Mohamed Riyaz, Additional Public Prosecutor.

6. This Court is of the considered view that the Court below has not properly applied its mind to the materials available on record and the entire exercise of framing of charges has been done in a mechanical fashion. The Court below had framed charges in an omnibus manner without putting forth the materials against the concerned accused persons before framing of the charges. Therefore, this Court has to necessarily interfere with the charges framed by the Court below.

7. Accordingly, the charges framed by the Court below in S.C.No.4 of 2019 is hereby quashed. The Special Court to which this case has been transferred shall undertake the exercise of framing of charges strictly in accordance with Sections 227 and 228 of Cr.P.C and strictly in accordance with the guidelines given by this Court in the case of P.Kallapiran Versus The Inspector of Police, Alwarkuruchi Police Station, Tirunelveli District reported in (2018) 2 LW (Cr1.) 779. It is also open to the Court to hear the respective counsel at the time of framing of the charges in order to properly appreciate the materials available on record.

8. This Criminal Original Petition is accordingly allowed and the Court below is directed to frame charges against each of the accused persons and complete the entire proceedings within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

ub/ssr

To

1.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.

2. The Public Prosecutor,
High Court, Madras.

Copy to

1.The Judge,
Special Cases for Trial of Criminal Cases
related to elected MPS and MLAs of Tamil Nadu Singaravelar
Maaligai Complex Chennai.

2.The Sessions Judge,
Sivagangai.

Cr1.O.P.No.2430 of 2019

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srg 19/02/2019