

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.O.P.No.21965 of 2019
and
Crl.M.P.Nos.11380 & 11382 of 2019

M.Nithyanandam ... Petitioner
Vs.

1. State by Inspector of Police,
Kangayam Police Station in Crime No.251 of 2017,
Tiruppur District.
2. Krishnamoorthy
S/o.Palanisamy
Village Administrative Office,
Mullipuram Village, Nathakadaiyur,
Kangayam Taluk, Tiruppur District. ... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in STC No.376 of 2018 pending on the file of the learned Judicial Magistrate, Kangayam District against the petitioner arrayed A-10.

For Petitioner : Mr.K.Ravi Ananthapadmanaban

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

O R D E R

This petition has been filed seeking to quash the proceeding in STC No.376 of 2018, pending on the file of the learned Judicial Magistrate, Kangayam.

2.The respondent police registered an FIR in Crime No.251 of 2017 for the offences under Sections 143, 341 and 283 IPC as against 32 named accused and others. The petitioner was added as A10 in the FIR.

3.The case of the prosecution is that, the accused persons all of a sudden indulged in road roko demanding for water supply

and thereby they caused disruption to the movement of traffic. In spite of the request made by the police to disperse from the place, the accused persons are said to have been continued with the road roko.

4.The investigation was completed and a final report was filed before the learned Judicial Magistrate, Kangeyam in STC.No.376 of 2018. The final report was taken on file for the offences under Sections 143, 341 and 283 IPC and the petitioner has been ranked as A10 in the final report.

5.The learned counsel for the petitioner submitted that the entire criminal proceedings is an abuse of process of Court. The learned counsel submitted that the persons belonging to the locality at Palayakottai Village, Tiruppur District were deprived of the minimum necessity of water for a long time and therefore the villagers left with no other option resorted to a peaceful road roko. The learned counsel submitted that the villagers were pushed to the extreme and they had no other means to show their protest except by resorting to a peaceful agitation. The petitioner also participated in the agitation. The learned counsel submitted that instead of resolving the dispute, the administration adopted the process of giving a police complaint through the Village Administrative Officer which resulted in the registration of FIR. The learned counsel submitted that the petitioner was not even aware that his name was added as an accused in this case.

6.The petitioner in the meantime was applying for a job and he was also selected for the post of Grade-II Police Constable. During verification, the petitioner was informed that a criminal case is pending against him. This case resulted in the cancellation of selection and the cancellation is now a subject matter of challenge in W.A.No.2059 of 2019.

7.The learned counsel concluded his arguments by submitting that even if the allegations made in the final report are taken as its, no offence has been made out and the entire proceedings are an abuse of process of Court.

8.The learned Additional Public Prosecutor submitted that villagers resorted to road roko without any prior notice which resulted in disruption to the movement of vehicles causing hardship to the general public. The learned counsel further submitted that the persons who were agitating were not willing to listen to police and did not disperse from the place and therefore the police did not have any other alternative except to register an FIR and conduct an investigation.

9.A counter affidavit has been filed by the respondent

police and in the counter affidavit a specific plea has been taken to the effect that nine witnesses were examined by the police and there are materials available as against the petitioner.

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

11.The complaint itself came to be lodged by the Village Administrative Officer on the ground that he got an information to the effect that the residents belonging to the village have resorted to agitation demanding for drinking water. He immediately went to the scene of occurrence and found nearly 50 persons involved in the agitation. He also found that the agitation had resulted in the disruption of traffic. Thereafter, the Block Development Officer was summoned to the place and based on the assurance given by him, the entire crowd dispersed. The names that have been cited by the Village Administrative Officer is based on the hear say information received by him from the Village Assistant and others. One of the name cited by him is the name of the petitioner.

12.Food, water and shelter are the three basic necessities that a human being must possess in order to make a decent living in the society. When persons are deprived of drinking water for a long time, the only manner in which the people can show their protest is by resorting to a peaceful agitation. It is an admitted fact that the accused persons resorted to a peaceful agitation and sat in the middle of the road demanding for drinking water. When a man is pushed to desperation, sometimes he tends to overact to the situation. These are matters where the administration is expected to act in a matured and balanced manner and the agitation must be taken in the right spirit and steps should be taken to provide drinking water to the people. If criminal proceedings are going to be initiated against people who are resorting to a peaceful protest, demanding for basic necessities, then such criminal proceedings will have to be interfered by this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

13.The nature of agitation that was conducted by the accused persons is a fundamental right guaranteed under Article 19(1)(a) of the Constitution of India. It is true that the agitation could have caused hardship to the general public for sometime. That does not mean that the administration will proceed against the agitators and commence a criminal prosecution. This is not what is expected in democracy and this does not reflect any maturity on the part of the State machinery. In the considered view of this Court, the State ought not to have proceeded further with the prosecution and it should

have left the agitators free after ensuring them with drinking water supply.

14.This Court finds that the entire proceedings is an abuse of process of Court and it requires the interference of this Court in exercise of its jurisdiction under Section 482 of Cr.P.C.

15.Unfortunately in this case, the petitioner who was selected a Grade-II Police Constable, was deprived of the selection only because of the criminal case about which he was not even aware till he was informed after verification. Adverse effects of such frivolous prosecution is clearly demonstrated in this case and the petitioner who should have been working as a Grade-II Police Constable by now has been made to run from pillar to post to sustain the job for which he was selected.

16.For the above said reasons, this Court is of the considered view that the continuation of the criminal proceedings is an abuse of process of Court not only against the petitioner but also against all those persons who have been made as an accused in this case. The reasons that have been assigned by this Court for the petitioner will also enure to the benefit of the other accused persons. This Court in the *Thamilendi vs. State* by Inspector of Police, Orathanadu Police Station, Thanjavur District reported in 2008 2 CTC 153 and in the case of *Chinnappa @ Mahendran vs. State* rep. by the Inspector of Police, Orathanadu Police Station, Thanjavur District reported in 2015 (1) MWN (Cr) 259 has categorically held that where the evidence available against the accused persons is inseparable and indivisible, it will be appropriate to quash the proceeding for all the accused persons. These judgments will squarely apply to the facts of the present case.

17.In the result, the proceedings in STC No.376 of 2018, on the file of the learned Judicial Magistrate, Kangeyam is quashed in entirety not only for the petitioner but also for all the accused persons who have been made to face a criminal prosecution unnecessarily. Since the entire proceedings in STC No.376 of 2018 has been quashed, the Court below shall take note of the same and shall close the proceedings forthwith.

18.With the above directions, this Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

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Sub Assistant Registrar

ssr

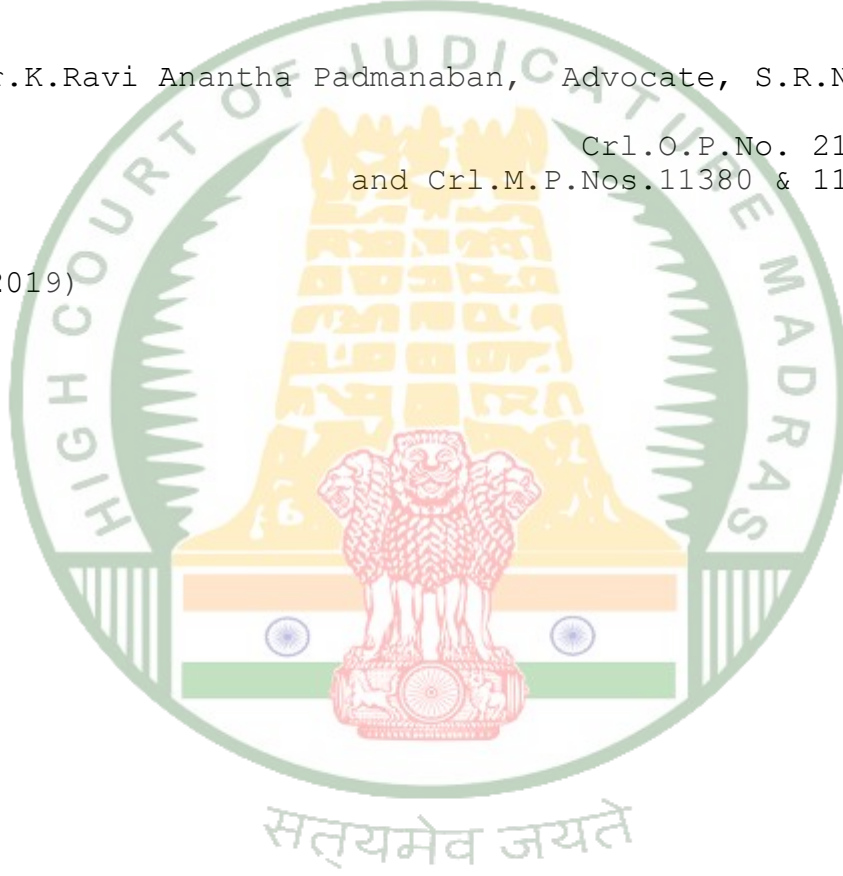
To

1. The Judicial Magistrate,
Kangeyam District.
2. The Inspector of Police,
Kangeyam Police Station,
Tiruppur District.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate, S.R.No. 71315

Crl.O.P.No. 21965 of 2019
and Crl.M.P.Nos.11380 & 11382 of 2019

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