

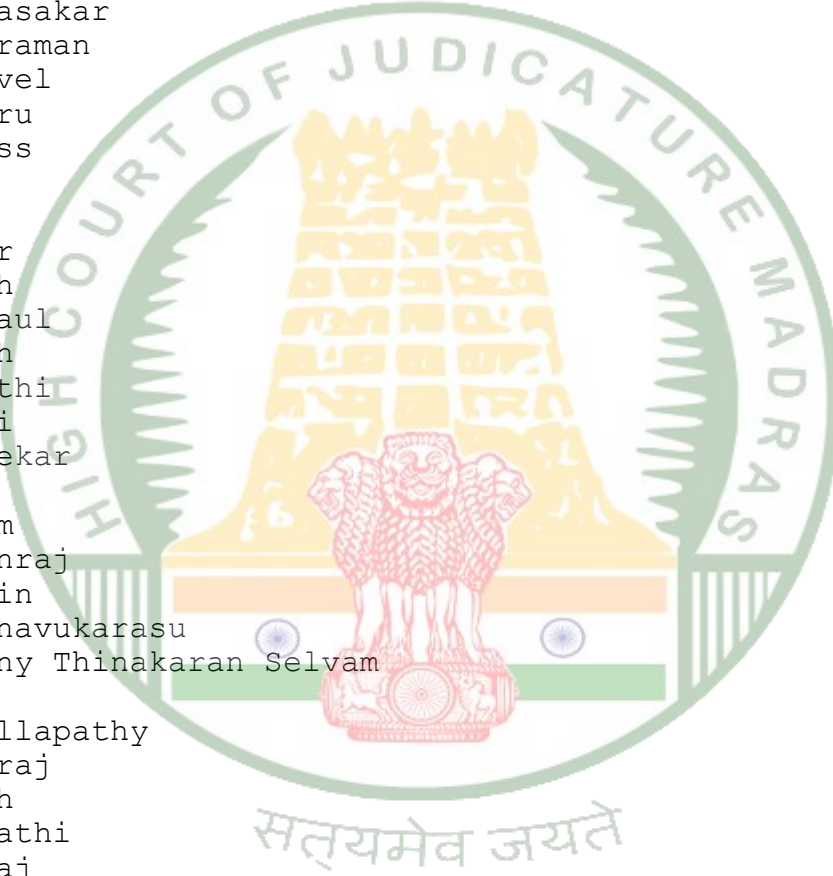
IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 26.08.2019

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P.No.22811 of 2019
and
Crl.M.P.No.11921 of 2019

1.S.Kumarasamy
2.R.Vithiyasakar
3.S.Janakiraman
4.K.Palanivel
5.S.Rajaguru
6.R.Ramadoss
7.R.Mohan
8.N.James
9.S.Shankar
10.S.Suresh
11.V.Johnpaul
12.K.Rajesh
13.P.Boopathi
14.M.Murali
15.K.Rajasekar
16.M.Ashok
17.A.Selvam
18.R.Madhanraj
19.F.Hushain
20.M.Thirunavukarasu
21.J.Anthony Thinakaran Selvam
22.R.Ramu
23.T.R.Chellapathy
24.J.Mohanraj
25.K.Suresh
26.R.Pasupathi
27.A.Jayaraj
28.J.Madhan
29.Maruthupandi
30.D.Rajapandi
31.V.Seetha
32.J.Shanthi
33.R.Kuppabai



WEB COPY

... Petitioners

-vs-

State Rep by
The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.

... Respondent

Prayer: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to in Crime No.561/2018 on the file of the respondent police and quash the same.

For Petitioners : M/s.K.Bharathi

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

ORDER

This petition has been filed seeking to quash the FIR registered in Crime No.561 of 2018, pending investigation on the file of the respondent police.

2.The case of the prosecution is that the accused persons had conducted a road roko near the Chennai Central Station Bus Stand by condemning the 8-Lane project that was proposed to be laid from Chennai to Salem. This road roko, according to the prosecution was conducted without permission and the accused persons were also seen to being supplying a booklet to the general public against the project and thereby spreading rumours against the Government. This road roko had caused disruption to the traffic and the public were put to hardship.

3.The learned counsel for the petitioner submitted that the FIR has been registered for an offence under Sections 143, 188, 505(1)(b) of IPC r/w 7(1)(a) of Criminal Law Amendment Act, 2005 and the same is not sustainable, in view of the judgment of this Court in Jeevanandham and others vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another. The learned counsel further submitted that the project itself became the subject matter of challenge before this Court and this Court has already quashed the proceedings and the same is now pending before the Hon'ble Supreme Court. In view of the same, the learned counsel for the petitioner submitted that not only the petitioners had questioned the 8-Lane project, but also this Court had quashed the very project itself. Therefore, the learned counsel submitted that the FIR against the petitioners is an abuse of process of law.

4.The learned Additional Public Prosecutor vehemently opposed the petition and submitted that the petitioners had involved in a road roko without any permission and had caused disruption to the traffic. The learned Additional Public Prosecutor further submitted that the 8-Lane project was proposed to be undertaken only on public interest and the petitioners were attempting to give a wrong impression about the project by distributing pamphlets against the project. The

learned Additional Public Prosecutor submitted that even though this Court has quashed the acquisition proceedings, the matter is now subjudice before the Hon'ble Supreme Court. Therefore, the learned Additional Public Prosecutor submitted that the respondent police must be permitted to proceed further with the investigation and the investigation should not be stalled at this stage.

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

6.The accused persons were agitating against the project that was planned to be implemented by the Government. This project, according to the petitioners, will affect the livelihood of many farmers and many farm lands will be taken away for the purpose of this project and thereby it would have resulted in very serious consequences for the farmers.

7.The main allegations that have been made against the petitioners is that they were distributing booklets against the proposed project and thereby were spreading rumours among general public against the project. The fact remains that the project itself has now come to the stand still in view of the fact that this Court has quashed the acquisition proceedings itself. Therefore, in a way, the reason for the protest made by the accused persons has been upheld by this Court by quashing the acquisition proceedings.

8.The case diary submitted before this Court shows that the investigation has almost been completed and the respondent police have altered the offence to Sections 505(1)(b), 147 and 290 of IPC.

9.Even though the offence has been altered, this Court is of the considered view that no offence has been made out to attract the provisions of Section 505(1)(b) of IPC. In order to attract the provisions of the said offence, the act of the accused persons must lead to causing alarm to the public or any Section of the public and induce them to commit an offence against the State or against public tranquility. Even if the case of the prosecution is taken as it is, the offence under Section 505(1)(b) is not attracted in this case. Merely because the accused persons were opposing the project that was planned to be implemented by the Government, that by itself cannot amount to an offence of public mischief.

10.In so far as the offence under Section 290 of IPC is concerned, this Court is of the considered view that no public nuisance has been committed by the petitioners and even otherwise it is a non cognizable offence which is punishable

with a fine of Rs.200/- and it would have required a permission to register an FIR by getting an order under Section 155 of Cr.P.C.

11.The allegations made in the complaint also do not constitute an offence under Section 143 of IPC since the ingredients under Section 141 of IPC is not attracted.

12.In view of the above, this Court is of the considered view that the continuation of the investigation against the petitioners will amount to an abuse of process of law and the same requires interference by this Court, in exercise of its powers under Section 482 of Cr.P.C.

13.In the result, the FIR in Crime No.561 of 2018 on the file of the respondent police, is hereby quashed and accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
C-1, Flower Bazaar Police Station,
Chennai.1

2.The Public Prosecutor,
Madras High Court,
Chennai.

+1 cc to M/s.K.Bharathi, Advocate Sr.No. 72609

AKM/24.09.19/4P-4C /

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