

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.17741 of 2017
and Cr1 MP.No.10851 of 2017

1. Dr.Dasthagiri Reddy
2. Dr.Promod Singh
3. Dr.Ramachandran
4. Prathap Kumar Shetty
5. Kaliaperumal
6. Anbazhagan
7. Dr.Veerappan
8. Dr.Vallathan
9. Chitra
- 10.Jeeva
11. Govindasamy

... Petitioners/Accused 1 to 11

Vs.

1. The State represented by
The Inspector of Police,
Kalapet Police Station,
Puducherry

..1st respondent / Complainant

2. Dr.S.Pannir Selvame
- Complainant

..2nd respondent / Defacto

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in connection with C.C.No.266 of 2016 on the file of the learned Judicial Magistrate II, Pondicherry and quash the same.

For Petitioner : Mr.R.Vivekananthan

For Respondents : Mr.Barathachakravarthi
Public Prosecutor for Puducherry
for R1
Mr.C.Anbu for R2

O R D E R

This petition has been filed seeking to quash the final report filed in C.C.No.266 of 2016, pending on the file of learned Judicial Magistrate II, Puducherry.

2. The case of the prosecution is that on 17.08.2016 at about 11.30 a.m, the accused persons joined together and formed into an unlawful assembly and wrongfully restrained the defacto complainant in his office at Pondicherry University and prevented him from performing his official duty and also threatened him with criminal intimidation. Thereafter, a final report came to be filed against the accused persons for an offence under Section 143, 342, 353, 506(ii) IPC r/w. 149 of IPC.

3. The learned counsel for the petitioner submitted that from 27.07.2017 onwards, the students belonging to the Pondicherry University had boycotted their classes protesting against the Vice Chancellor and were seeking for the removal of the Vice Chancellor. The protest reached a crescendo and the accused persons were showing their protest in a peaceful manner by gathering outside the office of the Registrar. This resulted in a false complaint being given against the accused persons and final report has also been filed.

4. The learned counsel for the petitioner submitted that the purpose for which the protest was conducted cannot be termed to be an unlawful assembly under Section 143 of IPC. The learned counsel further submitted that in order to attract the provisions of Section 353 of IPC, there must be a criminal force or assault, which is completely missing in this case. The learned counsel further submitted that just because the agitation was conducted outside the office campus of the University, that will not in any way attract the offence under Section 342 of IPC and it cannot amount to a wrongful restraint.

5. The learned Public Prosecutor appearing on behalf of the respondent police submitted that during that particular period of time, a lot of agitations happed inside the University campus against the continuation of a particular person as a Vice Chancellor. The learned counsel submitted that subsequently another Vice Chancellor has been appointed permanently by the Government of India and the agitations have stopped and peace is prevailing in the University. The learned counsel submitted that the allegations made in the final report makes out an offence of unlawful assembly, wrongfully restraint and also preventing a person from performing his public duty and therefore, there is no ground to interfere with the proceedings.

6. The learned counsel appearing on behalf of the 2nd respondent submitted that the 2nd respondent was wrongfully restrained by the accused persons and he was permanently confined in his office without being permitted to move out of the office from 11.00 am to 6.00 p.m. This constitutes an offence under Section 342 and 353 of IPC. The learned counsel further submitted that the 2nd respondent was also intimidated

by the accused persons and he was threatened and thereby an offence of Criminal intimidation is also made out against the accused persons.

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

8. The petitioners before this Court are the teaching staffs and the persons working on the administrative side of the Pondicherry University. It is an admitted case that an agitation was going on from July 2015 onwards against the appointment of Vice Chancellor and this agitation went on for nearly an year. Ultimately, it came to an end only after a new Vice Chancellor was appointed by the Government of India. During the interregnum period, several F.I.Rs came to be registered against the students, staffs and teachers of the University.

9. In the present case, the crux of the allegation against the petitioners is that they, accompanied by the students belonging to the University, had wrongfully restrained the 2nd respondent from moving out of his office and had prevented him from performing his official duty.

10. In order to attract an offence under section 353 of IPC, there should be some material to show that there was criminal force or assault as contemplated under Section 349 and 351 of IPC. In this case, there was merely an agitation conducted by the students and staff of the University. That by itself will not attract the provisions of Section 353 of IPC. In the same way, gathering of a group of persons who were conducting the agitation cannot be said to be an unlawful assembly, since it does not fall within the ingredients as stipulated under Section 141 of IPC.

11. Insofar as the offence of wrongful confinement is concerned, the case of the prosecution is that the 2nd respondent was confined in his his office for a long time, since the agitation was conducted outside the office of the 2nd respondent. There is nothing to show that the 2nd respondent was not in a position to move out of his office. The mere fact that the agitation was conducted outside the office of the 2nd respondent cannot ipso facto attract an offence under Section 342 of IPC.

12. Insofar as the offence of Criminal Intimidation is concerned, there is no material to show that the accused persons involved in any physical act against the 2nd respondent except shouting slogans. Therefore, even the offence under section 506(ii) is not attracted in this case.

13. In the considered view of this Court, the continuation of the criminal proceedings in future, will not in any way help to improve the atmosphere inside the Pondicherry University. During that particular time, lot of agitations were conducted and multiple F.I.Rs came to be registered. The situation has now changed and there is a Vice Chancellor appointed for the University and the University is functioning in a smooth manner. This Court does not want a criminal proceedings to unnecessarily create any further confusion in the University.

14. In the considered view of this Court, the continuation of the Criminal Proceedings will amount to an abuse of process of Court and it will not be in the interest of the students and staff of the Pondicherry University.

15. In the result, the proceedings in C.C.No.266 of 2016, on the file of the learned Judicial Magistrate II, Pondicherry, is hereby quashed and accordingly the Criminal Original Petition is allowed and consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Puducherry
2. The Inspector of Police,
Kalapet Police Station,
Puducherry
- 3.The Public Prosecutor (Puducherry),
High Court, Madras.

+1cc to Mr.R.Vivekananthan, Advocate SR.No.66689

+1cc to Mr.C.Anbu, Advocate SR.No.66364

GMY(22/08/2019)

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