



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.6444 of 2019

and

Crl.M.P. (MD) Nos.4292 and 4293 of 2019

T.Valli

..Petitioner/Accused No.72

Vs.

1.The State rep.by

The Inspector of Police
Elanjampur Police Station
Ramanathapuram District
(Crime No. 49 of 2016)

...1st Respondent/Complainant

2.P.Sivakumar

Village Administrative Officer
Melasirupothu Post
Muthukulathur Taluk
Ramanathapuram District

..2nd Respondent/Defacto Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in STC.No.1513 of 2016 on the file of the learned Judicial Magistrate, Muthukulathur in Cr.No.49 of 2016 dated 17.06.2016 on the file of the respondent No.1 police for alleged offences U/s.143 & 188 of IPC and quash the same as illegal as far as petitioner is concerned

For Petitioner : Mr.P.Vetrivel

For Respondents : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

O R D E R

This quash petition is filed to quash the criminal proceedings in STC.No.1513 of 2016 on the file of the learned Judicial Magistrate, Muthukulathur, thereby having been taken cognizance for the offences under Sections 143 and 188 of I.P.C.



as against the petitioner.

2.The case of the prosecution is that on 17.06.2016 at about 12.15 p.m the petitioner along with others gathered and conducted demonstration in the form of hunger strike and demanded to close the TASMACH shop while the Police Act was in force. Based on the complaint given by the second respondent, the first respondent registered a case in Crime No.49 of 2016 for the offences under Sections 143 and 188 of IPC and the same was taken cognizance in STC.No.1513 of 2016 on the file of the learned Judicial Magistrate, Muthukulathur. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offences as alleged by the prosecution. He would further contend that the charge against the petitioner was not attracted, since there is no allegation against the petitioner that he has violated the election rules/model code of conduct. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioner, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioner unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Government Advocate(Crl.Side) would submit that there are specific allegations as against the petitioner to proceed with the trial. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioner and the learned Additional Government Advocate(Crl.Side) appearing for the respondents/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioner is concerned, the first respondent levelled the charge under Sections 143 and 188 of I.P.C. as against the petitioner. It is seen from the charge that on 17.06.2016 at about 12.15 p.m the petitioner along with others gathered and conducted demonstration in the form of hunger strike and demanded to close the TASMACH shop while the Police Act was in force. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated

by public servant - Whoever, knowing that, by an



order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both"

7.Considering the above, this Court finds that for the simple charge, the petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in in STC.No.1513 of 2016 on the file of the learned Judicial Magistrate, Muthukulathur, is quashed as against the petitioner herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate, Muthukulathur

2.The Inspector of Police
Elanjampur Police Station
Ramanathapuram District



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.VETRIVEL, Advocate (SR-92539[F] dated 17/10/2019)

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KM/ (30.10.2019) 4P 6C