



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 16.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No.12886 of 2019

and

Crl.M.P (MD) Nos.7939 and 7941 of 2019

Ayyanar

...Petitioner/Accused No.2

Vs.

1. The State Rep.by
The Inspector of Police
Devarkulam Police Station
Tirunelveli District
(Crime No.69/18)
2. Thomas
The Sub Inspector of Police
Devarkulam Police Station
Tirunelveli District

...Respondents/Complainant

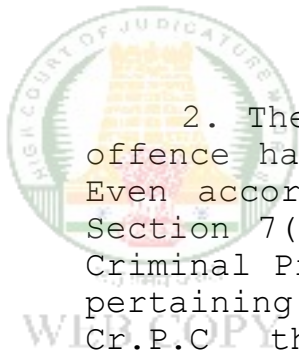
PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to to call for the records relating to C.C.No.765 of 2019 pending on the file of the learned Judicial Magistrate No.III, Tirunelveli and quash the said proceedings as against the petitioner.

For Petitioners : Mr.Ma.Karunanithi

For Respondents : Mr.K.Suyambulinga Bharathi
No.1 Government Advocate(Crl.Side)

ORDER

This petition has been filed to quash the proceedings in C.C.No.765 of 2019 pending on the file of the learned Judicial Magistrate No.III, Tirunelveli, having been taken cognizance for the offence under Section 7(1)(a) Criminal Law Amendment Act,2005. Initially the first respondent registered a case against the petitioner for the offence under Section 7(1)(a) of CLA Act,2005 on the allegation suspecting the petitioner who committed offence against general public.



2. The learned counsel for the petitioner would submit that no offence has been committed by the petitioner to attract offence. Even according to the case of the prosecution the offence under Section 7(1)(a) of CLA Act, 2005 is nothing but section 25 of the Criminal Procedure (Amendment) Act, 2005 shall be omitted. It is not pertaining to any of the offence. Further as per Section 154 of Cr.P.C the First Information Report book is meant for recording information of cognizable offences. Even according to the First Information Report absolutely no offence has been committed by the petitioner and only on assumption the case has been registered. Therefore he sought for quashing the First Information Report.

3. The learned Government Advocate (Crl.Side) would submit that the petitioner has prepared to commit offence as against the public property. Therefore the case has been registered against the three accused persons, in which the petitioner herein is arraigned as A2. According to the case of the prosecution all the accused persons on 16.05.2018 have planned to commit the offence as against the persons who fought for social cause and as such they also decided to attack tasmac shop and also to set fire to the Government buses. Therefore he sought for dismissal of the quash petition.

4. Heard Mr.Ma.Karunanithi, learned counsel for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl.Side) appearing for the first respondent.

5. It is seen that the First Information has been registered against three persons in Crime No. 765 of 2018 for the offences under Section 7(1)(a) of CLA Act, 2005 on the allegation that the accused persons are going to protest against the persons who fought for social cause and as also decided to attack the tasmac shop and also to set fire to the Government buses. It is seen from the provision under Section 7(1)(a) of CLA Act, 2005 that Section 25 of the Criminal Procedure (Amendment) Act, 2005 shall be omitted. He is in no way connected with the allegation made by the prosecution. More over, the First Information Report Book is meant only for recording information of cognizable offences under Section 154 of Cr.P.C. It would be proper that whenever the respondent police receives information which may be recorded by Executive Magistrate under Sections 107 to 110 of Cr.P.C and the same to be entered in a separate register, for initiating proceedings under the above provision by the Executive Magistrate.

6. In the case on hand, the case has been registered for offence under Section 7(1)(a) of CLA Act, 2005. That apart the first respondent conducted investigation and also filed final report. It is also taken cognizance mechanically even without any punishable offences. Therefore the entire proceedings taken cognizance for offence under Section 7(1)(a) of CLA Act, 2005 has to be vitiated.



7. In the result, the proceedings in C.C.No.765 of 2019 pending on the file of the learned Judicial Magistrate No.III, Tirunelveli is hereby quashed insofar as the petitioner herein is concerned and the Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar(CS-III)

/TRUE COPY/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.III, Tirunelveli
2. The Inspector of Police
Devarkulam Police Station
Tirunelveli District
- 3.The Additional Public Prosecutor
Madurai Bench of Madras High Court

+1 CC to M/s.M.KARUNANITHI, Advocate (SR-87355[F] dated 18/09/2019)

Crl.O.P. (MD) No.12886 of 2019
16.09.2019

aav
JM/30.09.2019/3P/5C