



WEB COPY

Crl.O.P.(MD)No.8470 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2019

CORAM :

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

Crl.O.P. (MD)No.8470 of 2018
and
Crl.MP (MD)No.3781 of 2018

- 1.Vetrivel
- 2.Kesavaperumal
- 3.Selvakumar
- 4.Sivalingam
- 5.Paramasivam
- 6.Muthuthandavan
- 7.Muthaiahpandian
- 8.Gopalraj
- 9.Chandrakumar
- 10.Jeyaraj
- 11.Vijayaragunathan
- 12.Chellapandi
- 13.Azhagarsamy
- 14.Thilagaraj
- 15.Arokkiaraj
- 16.Rajeswari
- 17.Nagaraj
- 18.Madasamy

... Petitioners/Petitioners

Vs.

- 1.The Inspector of Police,
Town Police Station,
Aruppukkottai.

<https://hcservices.ecourts.gov.in/KCServices/ECR-01-01-2016>

...1st Respondent/Complainant



2.Kalavathi,
Village Administrative Officer,
Chinnampuliyapatti,
Aruppukkottai,
Virudhunagar District.

...2nd Respondent/Informant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records pertaining to S.T.C.No.662 of 2017 on the file of the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District and quash the same.

For Petitioners: Mr.R.Murugappan

For R1 : Mr.R.Anandharaj
Additional Public Prosecutor

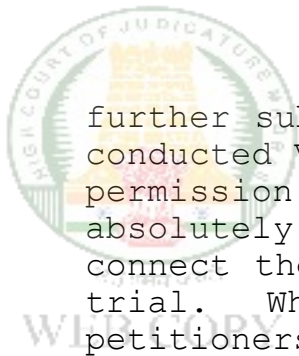
For R2 : No Appearance

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.662 of 2017 on the file of the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District.

2.The case of the prosecution is that on 09.09.2016, while conducting Vinayagar idol procession at Aruppukkottai, at about 3.45 p.m to 04.15 p.m, the petitioners violated the promulgation order and attempted to continue Vinayagar idol procession with beating musical instrument. They blocked the road and prevented the officials from discharging their duties. Further, the petitioners abused them and also criminally intimidated them. Hence, the first respondent register a case in Crime No.637 of 2016 for the offences under Sections 143, 188, 341, 353, 294 (b) and 506 (i) of IPC, as against the petitioners. After completion of investigation, the first respondent filed charge sheet before the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District, and the same was taken cognizance in S.T.C.No.662 of 2017. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioners would submit that on 09.09.2016, the petitioners and other General Public conducted Vinayagar idol Procession at Aruppukkottai after obtaining prior permission from the concerned authorities. But middle of procession, the first respondent and other police officials without any valid reasons arrested the petitioners, used force as against the petitioners and the other general public. He further submitted that the offence under Section 188 of IPC is concerned, the concerned officer, who promulgated the prohibitory order must be the complainant. But, in this case, the complainant/second respondent, who is not competent authority to pass promulgation order. He



further submitted that the petitioners and the other General Public conducted Vinayagar Idol Procession peacefully after obtaining prior permission from the authorities. He further submitted that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioners, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioners unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Additional Public Prosecutor would submit that there are specific allegations as against the petitioners to proceed with the trial. Further, he would submit that the petitioners are habitual offender by committing this kind of crimes. 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 Public Prosecutor appearing for the first 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 Section 188 of I.P.C. as against the petitioners. It is seen from the charge that on on 09.09.2016, while conducting Vinayagar idol procession at Aruppukkottai, at about 3.45 p.m to 04.15 p.m, the petitioners violated the promulgation order and attempted to continue Vinayagar idol procession with beating musical instrument. They blocked the road and prevented the officials from discharging their duties. 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 trends 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 charges, 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 S.T.C.No.662 of 2017 on the file of the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

dss
To

1. The Judicial Magistrate Court, Aruppukkottai,
Virudhunagar District.
2. The Inspector of Police,
Town Police Station,
Aruppukkottai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R. MURUGAPPAN, Advocate (SR-97497[F] dated
12/11/2019)

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and
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KK/SAR/09.12.2019/4P-5C/