



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.5137 of 2016

and

Crl.M.P. (MD)No.2532 of 2016

Sathik ... Petitioner/20th Accused

-vs-

1. The Inspector of Police,
Nilakottai Police Station,
Dindigul. ... 1st Respondent/Complainant
2. D.Suresh ... 2nd Respondent/Defacto
Complainant

PRAYER: Petition filed under Section 482 of the Criminal Procedure Code to call for the records pertaining to the Charge Sheet in S.T.C.No.547 of 2015 on the file the learned Judicial Magistrate, Nilakottai and quash the same as against the petitioner.

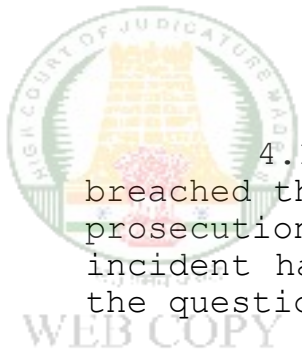
For Petitioner : Mr.N.Sekar
For R1 : Mr.A.Robinson
Government Advocate (Crl.side)

O R D E R

The petitioner is shown as one of the accused in S.T.C.No.547 of 2015 on the file of the learned Judicial Magistrate, Nilakottai. Crime No.40 of 2014 was registered on the file of the Nilakottai Police Station under Section 143 and 188 of IPC. The same was investigated and final report came to be filed. To quash the same, this Criminal Original Petition has been filed.

2.Heard the learned counsel on either side.

3.It is seen that the petitioner is a permanent resident of Kodanginaickenpatti village. The said village is suffering from water scarcity. Therefore the petitioner and others indulged in an agitation on 10.03.2014. Since during the relevant time, prohibitory orders were in force and no permission was obtained for conducting the agitation, a First Information Report came to be registered.



4.It is true that the petitioner and others had technically breached the prohibitory order. But then, it is not the case of the prosecution that any untoward incident took place. When no untoward incident has taken place pursuant to such breach by the petitioner, the question of maintaining the prosecution does not really arise.

5.A learned Judge of this Court by order dated 02.11.2010 in Crl.O.P.(MD)No.12702 of 2010 held that "for constituting the violation of an order under Section 188 of IPC, mere disobedience of the order is not enough; it must in addition be attended with evil consequences of disobedience as spelt out in Section 188 of IPC". In this case, no such consequence ensued.

6.Therefore the proceedings in S.T.C.No.547 of 2015 on the file of the learned Judicial Magistrate, Nilakottai stand is quashed and this Criminal Original Petition is allowed. It is made clear that the benefit of order will enure not only to the petitioner but also to the other accused. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Nilakottai.
2. The Inspector of Police,
Nilakottai Police Station,
Dindigul.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

PNN
TE : 18/02/2020 : 2P/4C

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