



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.14559 of 2019

and

Crl.M.P. (MD) Nos.8827 and 8829 of 2019

1. Muthupandiyan
2. Pandiyan
3. Muthu
4. Kangatharan
5. Edayakani
6. Thavamani
7. Lawrance
8. Edwin
9. Vasantha
10. Prema
11. Sornam
12. Muthukali
13. Pandimuthu
14. Kaliammal
15. Rajeswari
16. Vembavalli
17. Indra
18. Indra
19. Pilomenal
20. Panchavarnam
21. Kaliammal

..Petitioners

Vs.

1. The Inspector of Police
Devakottai Town Police Station
Devakottai, Sivagangai District
2. S. Ramesh
Village Administrative Officer
12 Uthaiyatchi Group
Devakottai Taluk
Sivagangai District

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to STC No. 30 of 2017 on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District and quash the same insofar as the petitioners/accused 7,13,19,24,35,38 to 40,46 to 58 are concerned.



For Petitioners : Mr.S.Muthukumar

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

WEB COPY

ORDER

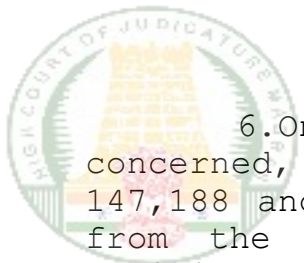
This quash petition is filed to quash the criminal proceedings in STC No. 30 of 2017 on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District, thereby having been taken cognizance for the offences under Sections 147,188 and 341 of I.P.C. as against the petitioner.

2.The case of the prosecution is that on 17.09.2014 at about 01.35 hrs the petitioners herein and others conducted road roko in front of Devakottai Bus stand and created slogans against the Police Department and Government and conducted struggle before the public and blocked the vehicles by sitting on the middle of the road. Based on the complaint given by the second respondent, the first respondent registered a case in Crime No.703 of 2014 for the offences under Sections 147,188 and 341 of IPC and the same was taken cognizance by the learned Judicial Magistrate, Devakottai, Sivagangai District in STC No. 30 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 the petitioners have not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioners have not violated any rules and model code of conduct relating to election. He would further contend that the charge against the petitioners were not attracted, since there is no allegation against the petitioners that they have 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 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. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondents/State and perused the materials available on record.



6. On a perusal of the charge as against the petitioners is concerned, the first respondent levelled the charge under Sections 147, 188 and 341 of I.P.C. as against the petitioners. It is seen from the charge that on 17.09.2014 at about 01.35 hrs the petitioners herein and others conducted road roko in front of Devakottai Bus stand and created slogans against the Police Department and Government and conducted struggle before the public and blocked the vehicles by sitting on the middle of the road. 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 STC No. 30 of 2017 on the file of the learned Judicial Magistrate, Devakottai, Sivagangai District, is quashed as against the petitioner herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //



To

1. The Inspector of Police
Devakottai Town Police Station
Devakottai, Sivagangai District

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

+2 CC to Mr.S.MUTHUKUMAR, Advocate (SR-92600[F] dated 17/10/2019)

Crl.O.P. (MD) .No.14559 of 2019
and
Crl.M.P. (MD) Nos.8827 and 8829 of 2019
16.10.2019

aav

VB(24.10.2019) 4P 5C