



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM:

WEB COPY

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

Crl.O.P.(MD).No.15104 of 2019
and
M.P.(MD) No.9036 of 2019

1.Nallathambi
2.Pawnraj
3.Manimozhiyan
4.PRC.Ramesh
5.P.Vishwanathan
6.Omrajapandi

..Petitioners/Accused 1 to 6

Vs.

1.The State rep. by,
The Inspector of Police (L & O),
D-2, Sellur Police Station,
Madurai City, Madurai.
(Crime No.384 of 2014).

.. 1st Respondent/Complainant

2.V.M.Rajavelan

.. 2nd Respondent/Defacto
Complainant

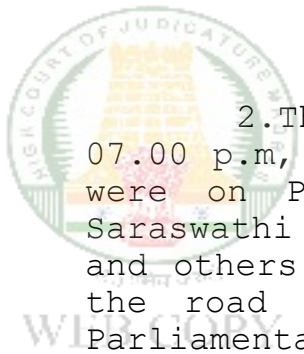
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in S.T.C.No.572 of 2014 dated 26.04.2014 on the file of the Judicial Magistrate No.2, Madurai and quash the same in respect of the petitioners.

For Petitioners : Mr.M.Lingadurai

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

O R D E R

This quash petition is filed to quash the criminal proceedings in S.T.C.No.572 of 2014 on the file of the Judicial Magistrate No.2, Madurai, thereby having been taken cognizance for the offences under Sections 143, 341, 386, 171(H) and 188 of I.P.C. as against the petitioners.



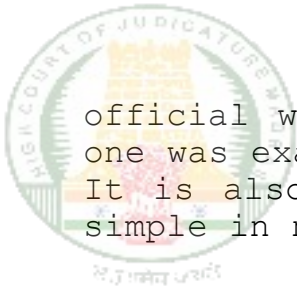
2.The case of the prosecution is that on 20.04.2014, at about 07.00 p.m, when the defacto complainant and Sellur Police Officials were on Pandhabasth duty at Madurai Sellur 50 feet road near Saraswathi theatre for the DMK treasurer M.K.Stalin, the petitioners and others unlawfully assembled at Sellur 50 feet road and blocked the road with DMK flag and busted crackers in support of DMK Parliamentary candidate by violating the Election code of conduct. Hence, the second respondent lodged a complaint before the first respondent police and the first respondent police registered a case in Crime No.384 of 2014 for offences under Sections 143, 341, 286, 171(H) and 188 of I.P.C and the case was taken cognizance by the Judicial Magistrate No.2, Madurai in S.T.C.No.572 of 2014. 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 was not attracted, since there is no allegation against the petitioners 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 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 Government Advocate(Crl.Side) 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 petitioners and the learned 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 petitioners are concerned, the first respondent levelled the charge under Sections 143, 341, 286, 171(H) and 188 of I.P.C as against the petitioners. It is seen from the charge that on 20.04.2014, at about 07.00 p.m, when the defacto complainant and Sellur Police Officials were on Pandhabasth duty at Madurai Sellur 50 feet road near Saraswathi theatre for the DMK treasurer M.K.Stalin, the petitioners and others unlawfully assembled at Sellur 50 feet road and blocked the road with DMK flag and busted crackers in support of DMK Parliamentary candidate by violating the Election code of conduct. Except the



official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioners. 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 S.T.C.No.572 of 2014 on the file of the Judicial Magistrate No.2, Madurai is quashed as against the petitioners herein. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

vsg

To

1.The Judicial Magistrate No.2,
Madurai.



2.The Inspector of Police (L & O),
D-2, Sellur Police Station,
Madurai City, Madurai.

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

+1 CC to M/s.M.LINGADURAI, Advocate (SR-93880[F] dated 23/10/2019)

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JMN(15.11.2019) 4P : 5C