



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2019

CORAM:

WEB COPY

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

Crl.O.P.(MD).No.16075 of 2019

and

Crl.M.P(MD) Nos.9581 and 9583 of 2019

1. N.Gopalakrishnan
2. A.Kaja

..Petitioners

Vs.

- 1.The Inspector of Police
Tallakulam Police Station
Madurai City

- 2.M.Rajavel
S/o.Mahalingam
Village Administrative Officer
Madurai North Village
Madurai

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the final report /charge sheet in connection with STC No. 580 of 2014 on the file of the learned Judicial Magistrate No.II, Madurai District and quash the same.

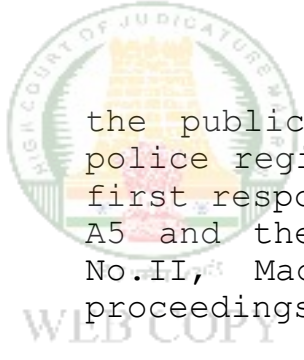
For Petitioners : Mr.S.Loganathan

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

O R D E R

This quash petition is filed to quash the criminal proceedings in STC No. 580 of 2014 on the file of the learned Judicial Magistrate No.II, Madurai District , thereby having been taken cognizance for the offences under Sections 143,188,341,174(H) of IPC and Section 184 of Motor Vehicle Act as against the petitioners.

2.The case of the prosecution is that the petitioner who is the candidate of Madurai Parliamentary Constituency of ADMK party along with other accused persons entered into the prohibited area by violating election commission rules and caused inconvenience to



the public and disturbed the traffic. Therefore the respondent police registered a case in crime No.376 of 2014 on the file of the first respondent, in which, the petitioners are arraigned as A1 and A5 and the case was taken cognizance by the Judicial Magistrate No.II, Madurai in S.T.C.No.580 of 2014. The said criminal proceedings is under challenge in this criminal original petition.

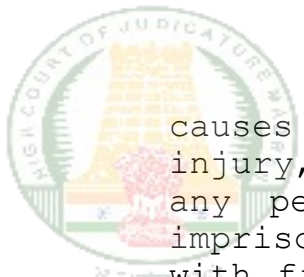
3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offences as alleged by the prosecution. Due to previous enmity, a false case has been foisted against the petitioners. He would further contend that the charge against the petitioners were not attracted, since there is no allegation against the petitioners. 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 is concerned, the first respondent levelled the charge under Sections 143,188,341,174(H) of IPC and Section 184 of Motor Vehicle Act as against the petitioners. It is seen from the charge that petitioner who is the candidate of Madurai Parliamentary Constituency of ADMK party along with other accused persons entered into the prohibited area by violating election commission rules and caused inconvenience to the public and disturbed the traffic. 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 to tender 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 charge, the petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners alone.

8. In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in STC No. 580 of 2014 on the file of the learned Judicial Magistrate No.II, Madurai District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Inspector of Police
Tallakulam Police Station
Madurai City
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD) .No.16075 of 2019
and

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