



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

CORAM:

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

Crl.O.P. (MD)No.20956 of 2018

and

Crl.MP. (MD)No.9698 & 9699 of 2018

- 1.Vetrivel
- 2.Anandan
- 3.Kadeswara Subaramanian
- 4.Kesava Perumal
- 5.Thamu Venkatesan
- 6.Senthil
- 7.Ponnaiah
- 8.Kurtalanathar
- 9.Sivasamy
- 10.Sivalingam
- 11.K.K.Raja
- 12.Saravana Karthick
- 13.Lenin
- 14.Jeyaseelan
- 15.Jeyaraj
- 16.Muthiah Pandian
- 17.Thilagaraj
- 18.Nagaraj
- 19.Chandrakumar
- 20.Rajeswari



Vs.

1.The Inspector of Police,
Town Police Station,
Aruppukkottai,
Virudhunagar District.
(FIR No.642 of 2016)

... Respondent/Complainant

2.Suresh Kumar

... Respondents/Defacto
Complainant

Prayer: Criminal Original Petition filed under section 482 of Criminal Procedure Code, to call for the records pertaining to proceedings of S.T.C.No.373 of 2018 on the file of the Judicial Magistrate Court, Aruppukkottai, Virudhunagar District and quash the same.

For Petitioner : Mr.R.Murugappan

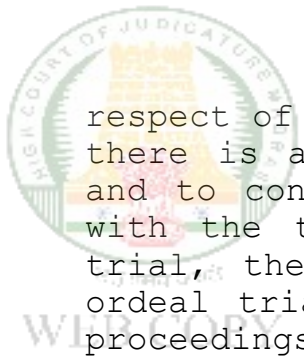
For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to quash the proceedings in S.T.C.No.373 of 2018 on the file of the learned Judicial Magistrate, Aruppukkottai, Virudhunagar District.

2.The case of the prosecution is that on 12.09.2016, at evening, the petitioners assembled unlawfully in front of the Aruppukkottai New Bus Stand and conducted a protest in respect of Vinayagar Idol Procession, which was held on 09.09.2016. In that protest, the petitioners used filthy language and criminally intimidated the higher officials and further caused public nuisance despite promulgation order was in force. Therefore, the first respondent registered a case in FIR No.642 of 2016 for the offences under Sections 143 and 188 of IPC. Further, the first respondent investigated the case and filed a charge sheet for the offences under Sections 143, 188, 506 (i), 109 IPC and Sections 3-A of Tamil Nadu Town Nuisance Act, 1889, as against the petitioners and the same was taken cognizance in S.T.C.No.373 of 2018 on the file of the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District. 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, Vinayagar Idol Procession was held at Aruppukkottai and also police protection was given by the respondent for that procession. Therefore, there was no reason for the petitioners to conduct protest on 12.09.2016 at Aruppukkottai in



respect of Vinayagar Idol Procession. 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 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 petitioner and the learned Government Advocate (Crl.Side) 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 09.09.2016. In that protest, the petitioners used filthy language and criminally intimidated the higher officials and caused public nuisance despite promulgation order was in force. 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.

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8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in S.T.C.No.373 of 2018 on the file of the learned Judicial Magistrate Court, Aruppukkottai, Virudhunagar District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

dss

To

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

+1CC TO MR.R.MURUGAPPAN, Advocate Sr. No. 100192

Cr1.O.P. (MD)No.20956 of 2018
and
Cr1.MP. (MD)No.9698 & 9699 of 2018
20.11.2019

MA (CO)
TR(12.12.2019) 4P 5C