



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.10.2019

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.O.P (MD) No.9748 of 2017

and

CRL.M.P (MD) Nos.6648 and 6649 of 2017

1.S.Vetrivel Chellan
2.M.Soundara Pandiyan
3.S.Thirumal Alagan
4.M.Nagaraj
5.C.Mukesh
6.A.Murugan
7.S.Lenin Kumar
8.M.Seeniyammal
9.T.Muneeswari
10.M.Pasupathi
11.M.Mareeswari
12.Chellaiah

.. Petitioners/Accused Nos.1 to 12

Vs.

1.The Inspector of Police,
Krishnankovil Police Station,
Virudhunagar District.
(Crime No.122 of 2014)

2.N.Syed Ali Fathima
Additional Assistant Executive Officer,
Vathirairupu Union,
Virudhunagar District. .. Respondent/Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge sheet IN S.T.C.No.455 of 2016 on the file of the learned Judicial Magistrate Court No.II, Srivilliputhur, Virudhunagar District in Crime No.122 of 2014, dated 11.08.2014 on the file of the respondent No.1 and quash the same as illegal.

For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.K.Dinesh Babu for R1
Additional Public Prosecutor

R2 - No Appearance



ORDER

This Criminal Original Petition has been filed seeking to quash the proceedings pending in S.T.C.No.455 of 2016 on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District.

2.The allegations made in the final report is to the effect that the first petitioner was suspended from service due to misconduct, on 07.08.2014, by the Management of the School. Therefore, he is said to have instigated the other petitioners and had held demonstration in front of the School by shouting slogans and thereby had prevented the other teachers and staffs from entering the School.

3.The Court below has framed a charge sheet against the first petitioner for the offence under Sections 120 (b), 147, 353 r/w 109 IPC. Insofar as the other petitioners are concerned, the charges have been framed under Sections 120(b), 147 and 353 of IPC.

4.The learned counsel for the petitioners submitted that the persons who are alleged to have been prevented from entering the School or the students and other teaching staffs and not even a single parent has been examined as a witness in this case.

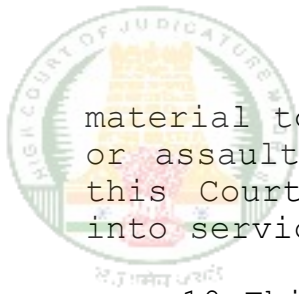
5.The learned counsel further submitted that the petitioners were conducting a peaceful demonstration and there was absolutely no assault or criminal force that was used by the petitioners and therefore, the offence under Section 353 IPC will not be attracted in this case. The learned counsel further submitted that the first petitioner has already been reinstated into service and therefore, no useful purpose will be served in keeping the proceedings pending.

6.The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the allegations made in the final report clearly makes out an offence and there is no ground to interfere with the proceedings at this stage.

7.This Court has carefully considered the submissions made on either side and the materials available on record.

8.The first petitioner is said to have been suspended from service due to some mis-conduct by the Management of the School. Therefore, a demonstration was held protesting the said suspension. This has resulted in a criminal prosecution.

9.In order to constitute an offence under Section 353 of IPC, there has to be a criminal force as defined under Section 350 of IPC or an assault as defined under Section 351 of IPC. In the present case, except for a peaceful demonstration, there is absolutely no



material to show that the petitioners had exerted any criminal force or assault against any one. It is also brought to the notice of this Court that the first petitioner has already been reinstated into service.

10.This Court is of the considered view that no offence has been made out in this case, even if the allegations made in the final report are taken as it is. The continuation of the proceedings will not serve any purpose and it will be an abuse of process of Court.

11.In the result, the proceedings in S.T.C.No.455 of 2016, on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District, is hereby quashed and the Criminal Original Petition is allowed accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

TM

To

1.The Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District.

2.The Inspector of Police, Krishnankovil Police Station, Virudhunagar District.

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

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JMN(13.11.2019) 3P : 4C