



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

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

Crl.O.P. (MD)No.17971 of 2019

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- 1.Mohamed
- 2.Veera Abdullah
- 3.Abdul Latheef
- 4.Sulthan
- 5.Rahamathulla
- 6.Ahamad Bilal
- 7.Sheik Mohamad
- 8.Arasu
- 9.Mohamad Ismayil
- 10.Mohamad Mathrsha
- 11.Mohamad Musthafa
- 12.Sheik Abdul Kathar
- 13.Kaja Maideen
- 14.Alavutheen
- 15.Abdul Rahman
- 16.Kathar Ali
- 17.Sulthan Alavutheen
- 18.Sathique Ali
- 19.Mohamad Asarutheen
- 20.Mohamad Mirsha
- 21.Angusamy
- 22.Thaslim Mohamad
- 23.Imam Ali
- 24.Aasik Ali

...Petitioners/Accused Nos.1 to 3,
5, 7, 8, 10 to 20, 22, 23 and 25 to 29
-Vs-

- 1.The State rep by
The Inspector of Police,
Town North Police Station,
Dindigul.
(Crime No.248 of 2018)

... 1st Respondent/Complainant

- 2.Deivam

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in C.C.No.263 of 2018 on the file of the Judicial Magistrate No.II, Dindigul, in Crime No.248 of 2018 on the file of the first respondent police and quash the same as illegal in so far as the petitioners herein are concerned.



For Petitioners : Mr.B.Arun

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

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ORDER

This petition has been filed to quash the proceedings in C.C.No.263 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul.

2.The case of the prosecution is that on 09.03.2018, the petitioners were conduct a protest for attacking the leader of Communist in Tribura. Due to which, there was a public and traffic nuisance. Hence, the respondent police registered a case in Crime No.248 of 2018 for the offences under Sections 342, 143, and 188 of IPC and the same has been taken cognizance in C.C.No.263 of 2018 by the learned Judicial Magistrate No.II, Dindigul.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offences as alleged by the prosecution and they have been falsely implicated in this case. Further, he submitted 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.

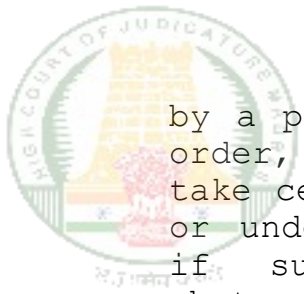
4.Per contra, the learned Government Advocate (Crl.Side) would submit that there are specific allegations as against the petitioners to proceed with the trial. Further, he would submit that the petitioners are habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash 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 first respondent/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 342, 143, and 188 of IPC, as against the petitioners. It is seen from the charge that on 09.03.2018, the petitioners were conduct a protest for attacking the leader of Communist in Tribura. Due to which, there was a public and traffic nuisance. 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

<https://hcservices.courts.gov.in/hcservices/> however, 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 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.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in C.C.No.263 of 2018 on the file of the learned Judicial Magistrate No.II, Dindigul, is quashed as against the petitioners herein.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

dss
To

1.The Judicial Magistrate No.II, Dindigul.

2. The Inspector of Police,
Town North Police Station, Dindigul.

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

+1 CC to M/s.B. ARUN, Advocate (SR-102810[F] dated 29/11/2019)

Cr1.O.P. (MD)No.17971 of 2019
29.11.2019

kmv (CO)
TR(20.12.2019) 3P 5C

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