



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.11.2019

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) No.17846 of 2019

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Stephen

... Petitioner/ Accused No.1

Vs.

1. The Inspector of Police

Kadaiyalumoodu Police Station

Kanyakumari District

... 1st Respondent/ Complainant

2. Mylappan

The Special Sub Inspector of Police

Kadaiyalumoodu Police Station

Kanyakumari District

..2nd Respondent/Defacto Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records relating to the impugned proceedings in STC No.497 of 2018 on the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District and quash the same as against the petitioner.

For Petitioner

: Ms.C.Bharathi

For Respondents

: Mr.K.Suyambulinga Bharathi

Government Advocate (Crl.Side)

ORDER

This Criminal Original Petition has been filed seeking to quash final report filed by the respondent police which has been taken on file in STC No.497 of 2018 on the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District.

2.The case of the prosecution is that on 10.12.2017 at about 11.10 a.m., the petitioner along with others unlawfully assembled in front of the respondent police campus and raised slogans against the Hindu Religion and thereby caused disturbance. Hence the second respondent lodged a complaint before the first respondent police and first respondent police registered a case in Crime No. 83 of 2017 for offences under Sections 143,188 and 353 of IPC and the case was taken cognizance by the learned Judicial Magistrate No.I, Kuzhithurai. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioner has not violated any rules. He would further contend that the charge against the petitioner was not attracted. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the



petitioner, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioner unnecessarily would not have put 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 petitioner to proceed with the trial. Further, he would submit that the petitioner is habitual offenders 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 petitioner is concerned, the first respondent levelled the charge under Sections 353, 143, 188 of IPC as against the petitioner. It is seen from the charge that on 10.12.2017 at about 11.10 a.m., the petitioner along with others unlawfully assembled in front of the respondent police campus and raised slogans against the Hindu Religion and thereby caused disturbance without obtaining any valid permission conducted protest to give rations things without delay and supply good products to the consumers. 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 petitioner 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 STC No.497 of 2018 on the file of the Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District, is quashed as against the petitioner herein.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No.I, Kuzhithurai, Kanyakumari District
2. The Chief Judicial Magistrate, Nagercoil at Kanyakumari
3. The Inspector of Police
Kadaiyalumoodu Police Station
Kanyakumari District
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.C.BHARATHI, Advocate (SR-102088[F] dated 28/11/2019)

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SMA/11/12/19/3P/6C

Cr1.O.P. (MD) No.17846 of 2019

28.11.2019

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