



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2019

CORAM:

WEB COPY

THE HONOURABLE **MR. JUSTICE A.D.JAGADISH CHANDIRA**

Cr1.O.P.(MD).No.18573 of 2019

and

Cr1.M.P(MD) Nos.10914 and 10915 of 2019

1. Mailvahanan
2. Veerachamy
3. Vellapandi
4. Chinnathambi
5. Gurusamy
6. Anandaraj
7. Subbiya
8. Pandi
9. Vadivu

..Petitioners /Accused
Nos.1 to 7, 9 & 10

Vs.

The State rep.by
The Sub Inspector of Police
Watrap Police Station
Virudhunagar District

..Respondent/Complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records relating to the proceedings in STC No. 126 of 2018 pending on the file of the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District and quash the same in respect of petitioners herein

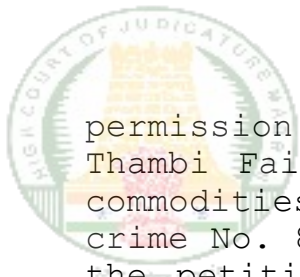
For Petitioners :Mrs.Farjana Ghoushia

For Respondents : Mr.S.Chandrasekar
No.1 Additional Public Prosecutor

O R D E R

This quash petition is filed to quash the criminal proceedings in STC No. 126 of 2018 pending on the file of the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District, thereby having been taken cognizance for the offences under Sections 143 and 188 of I.P.C. as against the petitioners.

2.The case of the prosecution is that on 13.03.2017 at about 10.15 a.m the petitioner along with others without obtaining



permission from the police had unlawfully assembled together near Thambi Fair Price Shop condemning the unfair distribution of PDS commodities. Therefore the respondent police registered a case in crime No. 80 of 2017 on the file of the first respondent, in which, the petitioners are arraigned as accused and the case was taken cognizance by the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District in STC No. 126 of 2018. The said criminal proceedings is under challenge in this criminal original petition.

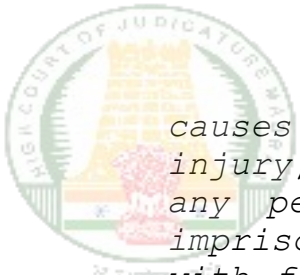
3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offences as alleged by the prosecution. Due to previous enmity, a false case has been foisted against the petitioners. He would further contend that the charge against the petitioners were not 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 Additional Public Prosecutor 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 Additional Public Prosecutor 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 143 and 188 of I.P.C. as against the petitioners. It is seen from the charge that on 13.03.2017 at about 10.15 a.m the petitioner along with others without obtaining permission from the police had unlawfully assembled together near Thambi Fair Price Shop condemning the unfair distribution of PDS commodities. 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.

8. In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in STC No. 126 of 2018 pending on the file of the learned Judicial Magistrate No.I, Srivilliputhur, Virudhunagar District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate No.I, Srivilliputhur

2. The Sub Inspector of Police
Watrap Police Station
Virudhunagar District

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

CrI.O.P. (MD) .No.18573 of 2019
and

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VB(02.01.2020) 3P 4C