



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2020

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.OP.No.26373 of 2018

and

Crl.MP.Nos.15165 of 2018 & 16287 of 2019

- 1.Arul
- 2.Soundar
- 3.Mariappan
- 4.Tamilmani
- 5.Muthukumar
- 6.Bharathi
- 7.Silambarasan
- 8.Sivasakthi
- 9.Rajesh
- 10.Packiyaraji
- 11.Kantha
- 12.Banumathi
- 13.Selvi
- 14.Menaki
- 15.Vimala
- 16.Venkatraman
- 17.Siva

... Petitioners/Accused

Versus

- 1.State by Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.
(Crime No.278 of 2018)

2.D.Vediappan

... Respondents/Defacto Complainant

Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in Crime No.278 of 2018 on the file of the respondent and quash the same.

For Petitioners: Mr.C.Murugendran

For Respondents: Mr. M. Mohamed Riyaz, (for R1)
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Crime No.278 of 2018 on the file of the respondent, whereby cognizance has been taken for the offences under Sections 147, 341, 353 and 506 (i) of IPC as against the petitioners.



2.The case of the prosecution is that on 02.10.2018, around 18.00 hours, the petitioner along with others indulged in an affray in a Gram Sabha meeting held by the complainant at Athipaadi Panchayat, Ilavampadi Village on the direction of the District Collector. At that time, the petitioner and others said to have created ruckus and also prevented the complainant from proceeding from that place, hence, the complaint. On the basis of the above said allegation, the first respondent police registered a complaint and filed a charge sheet against the petitioner and others for the offences under Sections 147, 341, 353 and 506(i) of IPC in Crime No.278 of 2018, on the file of the respondent.

3.The learned counsel appearing for the petitioner submitted that the petitioner is a social activist and has been raising voice for public cause and public welfare, whenever injustice and inaction of the government machineries is noticed. In the present case, a Gram Sabha meeting was held by the complainant at Athipaadi Panchayat, Ilavampadi Village at the instruction of the District Collector. During such meeting, the petitioner and others complained with respect to poor development works in the locality. The petitioner and others never created any ruckus as alleged or prevented the complainant from discharging his statutory duties. The learned counsel further submitted that the Hon'ble Supreme Court of India has held that the right to freely assemble and to freely express one's view are constitutionally protected rights under Part III of the Constitution of India and such enjoyment can be only in proportional manner through a fair and non-arbitrary procedure provided in Article 19 of Constitution of India. He further submitted that it is the duty of the Government to protect the rights of freedom of speech and assemble that is so essential to a democracy. According to Section 195 (1) (a) of Cr.P.C., no Court can take cognizance of an offence under Section 188 of IPC, unless the public servant has written order from the authority. Further he submitted that the petitioner or any other members had never involved in any unlawful assembly and there is no evidence that the petitioner or others restrained anybody. However, the officials of the respondent police had beaten the petitioner and others. When there was lot of members involved in the meeting, the respondent police had registered this case only as against the petitioner and others. Therefore, he sought for quashing the proceeding.

4.Per contra, the learned Additional Public Prosecutor submitted that the petitioner along with others staged protest and there are specific allegations as against the petitioner to proceed with the trial. Further, he would submit that Section 188 of IPC is a cognizable offence and therefore it is the duty of the police to register a case. Though there is a bar under Section 195(a)(i) of Cr.P.C. to take cognizance for the offence under Section 188 of IPC, it does not mean that the police cannot register FIR and investigate the case. More over, the petitioner is an habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.



5. Heard Mr. C. Murugendran, learned counsel for the petitioners and Mr. M. Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

6. The case of the prosecution is that on 02.10.2018, a Gram Sabha meeting was organised and nearly 250 people have participated in the meeting. In such meeting they have discussed about various developmental works. While being so, they created problem and demanded to re-lay the road from Panchayat Office to the boundary limits of Thiruvannamalai District. The de-facto complainant/Block Development Officer came to the place of occurrence and there, the petitioners and others prevented him from carrying on his official duties. Hence, the first respondent registered a case for the punishable offence under Sections 147, 341, 353 and 506(i) of I.P.C., as against the petitioners.

7. Admittedly, the participants have demanded to re-lay the road, for the reasons that they have not assured them for laying the road properly it does not attract the offence under Section 147 of I.P.C., since there was no unlawful assembly and the Gram Sabha meeting was organised by the Panchayat. Further, the offence under Sections 341 & 353 are also not attracted as against the petitioners since they never restrained the de-facto complainant from doing his official work.

8. After demand made by the petitioners, the de-facto complainant visited the place of occurrence and there, the petitioners and others demanded him to re-lay the roads. Therefore, it would not amount to restraining the second respondent from doing his official duties. Admittedly, no one sustained any injuries. Moreover, there was no assault or criminal force against the second respondent by the petitioners and others. Therefore, the offence under Section 353 of I.P.C., would not at all be attracted as against the petitioners. Even, on perusing the records, there were no threats made to the de-facto complainant by the petitioners at any point of time and as such, the offence under Section 506(i) of I.P.C., is also not attracted as against the petitioners.

9. Therefore, the entire proceedings are nothing but an abuse of process of law and it cannot be sustained as against the petitioners. On the basis of this case, the petitioners need not undergo the ordeal of trial.

10. In view of the above discussion, the Criminal Original Petition is allowed and the case in Crime No.278 of 2018 on the file of the respondent is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar



klr

To

1. State by Inspector of Police,
Singarapettai Police Station,
Krishnagiri District,

2. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.G.Murugendran, Advocate SR.No.23371

Crl.OP.No.26373 of 2018
and
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VSN II (CO)
GMY (01/07/2020)