



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2020

CORAM:

WEB COPY

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P(MD)No.14127 of 2020
and Crl.M.P.(MD)No.6514 of 2020

Mohamed Shajakhan

... Petitioner

Vs.

1.State Rep.by,
The Sub Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

2.Sirajudheen
Sub Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

... Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the entire records pertaining to FIR in Cr.No.735 of 2019 on the file of the first respondent under Sections 143 & 341 IPC and quash the same as illegal as against this petitioner.

For Petitioner : Mr.S.A.S.Alaudeen

For R1 : Mr.V.Neelakandan,
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the First Information Report in Crime No.735 of 2019 on the file of the first respondent police as against the petitioner.

2.The learned counsel for the petitioner would state that the allegation against the petitioner is that on 06.12.2019, the petitioner and others assembled and conducted protest against the verdict of Babri Masjith demolition case without getting any permission. On the basis of the complaint of the second respondent, a case was registered against the petitioner and other persons by the first respondent in Crime No.735 of 2019 for the offence under Sections 143 & 341 IPC. The learned counsel would further state that on the face of FIR, it does not make out any offence and that the issue in the present case is covered by the decision of this



Court in Jeevanantham vs. State reported in 2018 (2) K.W. (Crl) 606.

3.The learned Additional Public Prosecutor appearing for the first respondent, on instructions, would state that the petitioner protest against verdict of Babri Masjith demolition case without getting any permission and social distancing and caused disturbance to the free flow of public and he would fairly state that no violence or untoward incident had taken place.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor appearing for the 1st respondent.

5.In the decision relied on by the petitioner in 2018 (2) K.W. (Crl) 606, Jeevanantham vs. State, this Court has held as follows:-

'In all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a ordinary citizen. If such an assembly of persons are to be trifled by registering an FIR under Section 143 of IPC and filing a final report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.'

6.In my considered opinion, the above decision is squarely applicable to present case on hand. The entire reading of the FIR does not make out any offence and it is not supported by any material evidence and therefore, I am inclined to quash the FIR.

7.Accordingly, the impugned F.I.R in Crime No.735 of 2019, on the file of the first respondent police is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gns

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Sub Inspector of Police,
Sivakasi Town Police Station,
Virudhunagar District.

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

Crl.O.P (MD) No.14127 of 2020
07.12.2020

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