



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2020

CORAM:

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.14147 of 2020
and Crl.M.P(MD)No.6535 of 2020

Mohamed Gani @ Mohammed Kani ... Petitioner/Accused No.1

vs.

1.The State represented by the
Inspector of Police,
Eruvadi Police Station,
Tirunelveli District. ...1st Respondent/Complainant
(Crime No.338 of 2020)

2.Rajendran,
S/o.Name Not Known,
Sub-Inspector of Police,
Eruvadi Police Station, Tirunelveli, ... 2nd Respondent/Defacto
Complainant

Prayer : This Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.338 of 2020 on the file of the first respondent and quash the same as illegal so far as the petitioner is concerned.

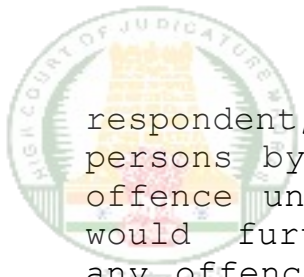
For Petitioner : Mr.K.Navaneetharaja

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.338 of 2020 on the file of the first respondent.

2.The learned counsel for the petitioner would state that the allegation against the petitioner is that on 28.08.2020, the petitioner and others unlawfully assembled near Eruvadi Bazar and conducted protest against new education policy and new environment policy, without following the CORONA Pandemic Norms and social distancing norms, on the basis of the complaint given by the second



respondent, a case was registered against the petitioner and other persons by the first respondent in Crime No.338 of 2020 for the offence under Sections 143, 283 & 270 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 decisions 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 on 28.08.2020, the petitioner and others unlawfully assembled near Eruvadi Bazar and conducted protest against new education policy and new environment policy, without following the CORONA Pandemic Norms 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 reported 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.The above judgment is squarely applicable to the present facts and circumstances of the case. Though, there are *prima facie* materials to justify the registration of the First Information Report, I am of the view that its continuance is not warranted. This is because no untoward incident had taken place. The country had witnessed protests all over by different sections of people against various amendments. Since the protest was conducted in a peaceful manner and even the First Information Report does not disclose any act of violence or happening of untoward incident, I am of the view that the continued prosecution is not warranted. Quashing the same will secure the ends of justice.



7. Accordingly, the impugned F.I.R in Crime No.338 of 2020, on the file of the first respondent police is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (RTI)

// 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

The Inspector of Police,
Eruvadi Police Station,
Tirunelveli District.

Copy to

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

Crl.O.P. (MD) No.14147 of 2020
07.12.2020

KM (27.01.2021) 3P 3C