



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD)No.14923 of 2020

and Crl.M.P(MD)No.7124 of 2020

.. Petitioner/A2

Vs.

Syed Eshack

1.The State Represented by

The Inspector of Police,
Thallakulam Police Station,
Madurai City, Madurai.

(In crime No.1948 of 2020) ..R1/Complainant

2.Karthic

S/o.Not Known,
Sub Inspector of Police,
Thallakulam Police Station,
Madurai City,
Madurai District.

...2nd Respondent/Defacto complainant

Prayer : This Criminal Original Petition has been filed under Section 482 Cr.P.C., to call for the entire records pertaining to the impugned First Information Report in crime No.1948 of 2020 on the file of the first respondent police station and quash as against the petitioner concerned as illegal.

For Petitioner : Mr.P.Ponraj

For R1 : Mr.V.Neelakandan

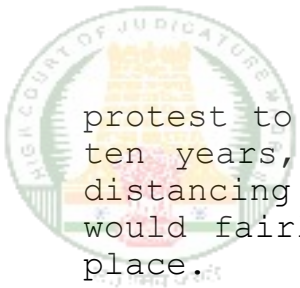
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in crime No.1948 of 2020 on the file of the first respondent.

2.The learned counsel for the petitioner would submit that the second respondent herein made a complaint by alleging that the petitioner and other accused, on 10.09.2020 entered into a protest to release the accused, who are all in prison for more than ten years. Based on the complaint, the first respondent registered a case in crime No.1948 of 2020 for the offence under Sections 143, 269 and 270 IPC. He would further submit that the petitioner and others conducted peaceful protest and there is no untoward incident happened. 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 a case of 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 to release the accused, who are all in prison for more than ten years, 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.

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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.1948 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.

Sd/-

Assistant Registrar (P&A)

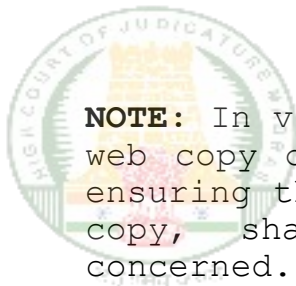
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/ /2021

Sub Assistant Registrar(CS)

gns

<https://hcservices.ecourts.gov.in/hcservices/>



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.

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To

- 1.The Inspector of Police,
Thallakulam Police Station,
Madurai City, Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1CC M/s.R.Karunanidhi,Advocate,SR.No.25815 dated 16/12/2020

Crl.O.P. (MD) .No.14923 of 2020
16/12/2020

MK (CO)
KB(18.01.2021) 3P 4C