



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.12.2020

CORAM:

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THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P.(MD).No.15065 of 2020 and
Crl.MP(MD) No.7221 of 2020

Mujibur Rahman ... Petitioner/Accused No.1
Vs.

1.State Rep by
The Inspector of Police,
Thilagar Thidal Police Station,
Madurai City,
(Crime No.524/2019) ... 1st Respondent/Complainant

2.Bhuvaneswari ...2nd Respondent /Defacto Complainant

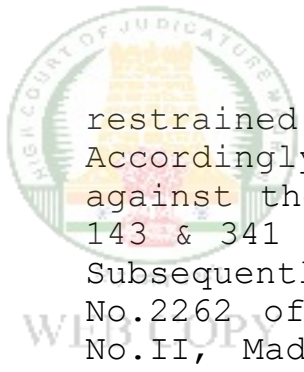
Prayer : This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet in S.T.C.No.2262 of 2020, on the file of the learned Judicial Magistrate No.II, Madurai and quash the same as illegal.

For Petitioner : Mr.A.Mohamed Yusuf
For R1 : Ms.S.E.Veronica Vincent
Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the Charge Sheet in S.T.C.No.2262 of 2020, for the offences under Sections 143 & 341 IPC, on the file of the learned Judicial Magistrate No.II, Madurai and quash the same as illegal.

2.The learned counsel for the petitioner would state that the petitioner is a member of Social Democratic Party of India, a Political Organization and they are actively participating in the social welfare works throughout the nation. More remarkably, they are the frontline helpers in the Chennai Flood disaster and in the present Covid-19 pandemic situation. On 05.08.2019, a peaceful public gathering was conducted by the petitioner along with others near Railway junction at Madurai and the same was ended within few minutes without any rustle. According to the prosecution, the petitioner along with 108 members assembled in the occurrence spot and protested against the murder of one Halid Ansary and



restrained the public movement and caused public nuisance. Accordingly, a case in Crime No.524 of 2019 has been registered against the petitioner and others for the offences under Sections 143 & 341 IPC, based on the complaint given by the 2nd respondent. Subsequently, charge sheet was also been registered in S.T.C No.2262 of 2020, on the file of the learned Judicial Magistrate No.II, Madurai. 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 CRL.OP(MD)No.3770 of 2012 dated 06.06.2018 and Jeevanantham vs. State reported in 2018 (2) K.W. (Crl) 606.

3.The learned Government Advocate (Crl.Side) would state that without getting proper permission, the petitioner along with 108 members assembled in the occurrence spot and protested against the murder of one Halid Ansary and caused disturbance to the free flow of public and she 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 (Crl.side) for the 1st respondent.

5.In the decision relied on by the petitioners 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 and subsequent registration of a case in S.T.C.No.2262 of 2020, I am of the view that its continuance is not warranted. This is because no untoward incident had taken place. 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 proceedings in S.T.C.No.2262 of 2020, on the file of the learned Judicial Magistrate No.II, Madurai, is quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Judicial Magistrate No.II, Madurai.
- 2.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai City.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

ORDER MADE IN
Crl.O.P. (MD) .No.15065 of 2020 and
Crl.MP (MD) No.7221 of 2020
17.12.2020

kg (CO)

TR(09.02.2021) 3P 4C