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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2021

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

Cr1.O.P.No.22494 of 2015
and M.P.No.1 of 2015

PON.CHO.Kamaraj

.. Petitioner/Accused (A5)

Vs.

State by
Inspector of Police,
Senthurai Police Station,
Ariyalur District.

.. Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in S.T.C No: 107 of 2014 on the file Learned Judicial Magistrate, Ariyalur, Ariyalur District in so far as the petitioner is concerned and quash the same.

For Petitioner	.. Mr.S.Sasikumar
For Respondent	.. Mr.E.Raj Thilak Government Advocate (Criminal Side)

ORDER

Even though there is no representation on behalf of the petitioner, since the matter had came up for consideration on two earlier occasions, I feel that it may not be proper to keep pending this petition on the board of this Court any further.

2.Heard Mr.E.Raj Thilak, learned Government Advocate (Criminal Side) appearing for the respondent.

3.This petition has been filed taking advantage of Section 482 Cr.P.C., seeking interference with S.T.C.No.107 of 2014 which is now pending on the file of the Judicial Magistrate Court, Ariyalur.

4.The petitioner has been charged for alleged offences under Sections 143, 341 and 188 I.P.C., r/w 7(1)(a) of CLA Act. The petitioner and others conducted agitation and road roco on 30.04.2013. He invited a First Information Report to be lodged and First Information Report was lodged and subsequently, STC No.107 of 2014 had been taken cognizance by the learned Judicial Magistrate, Ariyalur.



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5.A perusal of the petition show that the final report did not make any averments against the petitioner and there are no averments that offence had been actually committed by the petitioner. It is also seen that the petitioner was one among several others who had conducted road roco on 30.04.2013. This had invited the charge under Section 188 IPC.

6.Section 188 IPC which relates to disobedience to an order duly promulgated by a public servant had came up for consideration in a batch of Criminal Original Petitions in CrI.O.P.No.1356 of 2018 batch, Jeevanandham and others V. The Inspector of Police, Velayuthampalayam Police Station, Karur District. (Crime No.443 of 2016) and another.

7.A learned Single Judge of this Court had examined the said provision in detail and had finally observed that if the final report does not make out an offence of unlawful assembly or wrongful restraint, then, the offence would not be attracted.

8.In the instant case also I would follow the dictum laid down by the learned Single Judge.

9.In the final report a copy of which has been enclosed along with the petition, it had been merely stated that all the named accused had conducted road roco and agitated against the Government and had an intention to damage the public property and they had blocked the traffic. These allegations according to the learned Single Judge are not sufficient to attract offences under Section 188 IPC.

10.The learned Single Judge had also examined about democratic dissent which can be shown by a citizen and observed that prohibition would amount to violation of fundamental rights guaranteed under the Constitution.

11.Even though my reasoning is not extended to that extent, I would still interfere with further progress in view of total lack of allegations against the petitioner in the final report and quash all further proceedings in S.T.C.No.107 of 2014 insofar as the present petitioner / A5 is concerned.

12.With the above observation, the present Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

smv



To

1. The Inspector of Police,
Senthurai Police Station,
Ariyalur District.

2. The Judicial Magistrate, Ariyalur, Ariyalur District

3. The Public Prosecutor
High Court of Madras.

Crl.O.P.No.22494 of
2015
and
M.P.No.1 of 2015

PCH(CO)
A.SK(20.10.2021)