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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

CRL.O.P.No.8784 of 2018

and

Crl.M.P.Nos.4528 and 4529 of 2018

- 1.M.Mohankumar
- 2.K.Saminathan
- 3.T.Arungiri
- 4.K.Mahalingam
- 5.K.Kaliappan
- 6.A.Ponnusamy
- 7.M.Arun Prakash
- 8.N.Ponamuthu
- 9.N.Chinnasamy
- 10.Natchi
- 11.K.Murugan
- 12.N.Mgudeeshwaran
- 13.P.Subramani
- 14.S.Seerangasamy
- 15.N.Murugesan
- 16.K.Sivakumar
- 17.K.Palanisamy
- 18.M.Manimegalai
- 19.P.Thangammal
- 20.V.Anitha
- 21.S.Valarmathi
- 22.M.Karuppal
- 23.V.Karuppathal
- 24.S.Seeraal
- 25.S.Veerammal
- 26.S.Baby
- 27.A.Thirumathal
- 28.B.Senthamarai
- 29.P.Vijaya
- 30.R.Arthnareeswari
- 31.A.Kavithamani
- 32.K.Pangeeswari
- 33.G.Muthulakshmi
- 34.K.Easwari
- 35.S.Saraswathi
- 36.R.Poongodi

...Petitioners



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Versus

1.State rep.by
Inspector of Police,
Alangiyam Police Station,
Dharapuram Taluk,
Tiruppur District.

2.Mrs.Sivasangari

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating in S.T.C.NO.1109 of 2017 on the file of learned Judicial Magistrate, Dharapuram and quash the same.

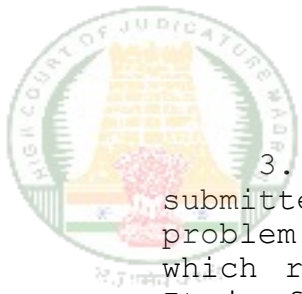
For Petitioners : Mr.N.Ponraj

For RR1 : Mr.A.Gopinath
Government Advocate (Crl.Side)

O R D E R

The petitioners have filed this petition seeking to call for the records relating in S.T.C.No.1109 of 2017, on the file of learned Judicial Magistrate, Dharapuram and quash the same.

2. The case of the prosecution is that the petitioners/accused persons are resident of Uthupalayam Village and there is severe scarcity for drinking water in their village. Aggrieved over the same, the petitioners appealed before the Block Development Officer to address their water problem. Accordingly on 12.06.2017, the BDO took steps to deepen the borewell which was dry, situated at Poromboke land near Thanneer Kinathu Thottam. However, even after deepening of the said borewell, it did not yield much water. Thereafter, the petitioner made request on 12.06.2017 to dig a new borewell in another place as mentioned by the petitioners and the said request was not considered by the revenue officials and other authorities. Hence the petitioners decided to conduct Road Roko in order to have their water problem resolved, which is alleged to have caused disturbance to the traffic as well as to the passerby during night hours, inspite of request from various government officers to disperse. Hence the Sub Inspector of Police, Dharapuram, has lodged a complaint in Cr.No.74 of 2017 under Sections 143, 341 and 283 IPC, against 36 accused persons, who are petitioners before this Court. Thereafter the investigation was completed and final report was filed before the learned Judicial Magistrate, Dharapuram, in S.T.C.No.1109 of 2017. Challenging the same, the present petition is filed.



3. The learned counsel appearing for the petitioners submitted that to have their grievance relating to acute water problem redressed, the petitioners have resorted to road roko, which resulted in the criminal machinery filing the complaint. It is further submitted that the local residents of the village have to travel many kilometers every day to fetch drinking water and further the people of the locality are deprived of the minimum basic facility of drinking water. They made request to the Block Development Officer for digging a new borewell to have their water problem resolved. However, repeated representation submitted in this regard has failed to invoke any kind of response from the concerned authorities and in order to get appropriate relief, the petitioners decided to stage a Road Roko in a peaceful manner. The petitioners participated in the agitation in a peaceful manner, but without any iota of evidence as to disturbance to the public, complaint has been lodged against them as if they caused nuisance to the general public. The act of the respondents is wholly unsustainable and without understanding and alleviating the basic grievance of the people of the area, the complaint has been registered against the petitioners who are fighting for their basic livelihood. It is further submitted that implicating the petitioners in the present case without there being any promulgation by the District Magistrate under Section 144 Cr.P.C. and registering the case against the petitioners, is not sustainable. In the absence of any restriction, the petitioners are entitled to assemble in a peaceful manner and agitate for getting their rights and accordingly prays for allowing of the present petition.

4. The learned Government Advocate (Crl.Side) appearing for the State submitted that the villagers resorted to unlawful assembly without obtaining any prior permission from the concerned officials and thereby disturbed free movement of traffic and caused nuisance to general public. The act of the petitioners have not only caused law and order problem, which necessitated the law enforcing agency to step in and prevent any untoward incidents and the act of the petitioners in staging the agitation without getting prior permission from the concerned authorities has resulted in the complaint being registered, which should not be interfered with by this Court u/s 482 Cr.P.C., as otherwise the same will send a bad signal to the general public to take law into their own hands and resort to such agitations, which will lead to grave law and order situation. Further, to absolve themselves from the charge, the petitioners have to face the trial and this Court, in exercise of its inherent powers may not interfere with the complaint as otherwise people would resort to such agitations without obtaining permission from the concerned authorities, which will lead to grave law and order problem and, accordingly, prays for



dismissal of this petition.

5. This Court gave its anxious consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

6. The facts as to the villagers of Udhupalayam facing acute water shortage and they are suffering even to get clean drinking water for the past many years is not disputed. It is equally not in dispute that with regard to their above grievance, many representations have been submitted to the concerned authorities for digging up borewell so that the villagers get adequate and safe drinking water. The agitation has been staged by the petitioners in view of the unsuccessful response from the concerned authorities to have their grievance redressed.

7. It is to be pointed out that water is an essential part of human need. Without water, the sustenance of human would be in peril. This court is of the view that Water is a fundamental human need. It is the duty of the Government to provide clean and safe drinking water to its citizens, as it is one of the fundamental necessities for sustained living. However, due to ill maintained water bodies and disappearance of water bodies due to encroachment on the same by unscrupulous elements has driven the citizens to agitate to get even the very basic necessity to lead a life. Scarcity of water is one of the grave concerns, which the whole country is facing and it is for the authorities to redress the same so that the citizens are not driven to the streets to agitate even for getting the basic requirement.

8. Day in and day out, it is flashed in all the media and it has also come to the attention of this Court that water bodies are encroached upon or else the water bodies are not maintained so that the rain water is gushed into the drains without being properly stored. In spite of very many directions from this Court, still the governmental agencies are unmindful of the encroachment or maintenance of the water bodies, which has pushed the common man to come on the roads and agitate for his basic rights, like the petitioners, who have been struggling for years together without there being any light at the end of the tunnel. The resultant act is the agitation by the citizens like the petitioners even to have their basic needs fulfilled. But, the petitioners are not only pushed to the brink of saving their life in search of water, but are also slapped with complaints of this nature, which too they have to fight for. The autocratic nature of the governmental machinery is writ large in the registration of the case against the petitioner. Merely because the petitioners have not obtained any prior



permission for agitation, would not grant any authority to the law enforcing agency to register a case against the petitioners. If such an act is done by the law enforcing agency, there would neither be any agitation nor any improvement in the life and living conditions of the citizens in a civilized society.

9. In the case on hand, there is nothing on record, except for the bare averments by the respondent to suggest that the agitation of the petitioners have led to a grave law and order situation. On the contrary, the absence of any material by the respondent only reveals that the agitation conducted by the petitioners have gone through in a peaceful manner. It is also the admitted case of the respondents that during the relevant point of time, there was no proceedings/promulgation of any order u/s 144 Cr.P.C. by the District Magistrate nor any such order was passed after the agitation. No untoward incident has also been brought to the notice of this Court which is the result of the agitation conducted by the petitioners. In the absence of any proceedings from the District Magistrate, it is evident that the petitioners have conducted their agitations in a peaceful manner. It is to be pointed out that the Constitution guarantees the right to peaceful protest under Article 19(1), which is squarely applicable to the agitation conducted by the petitioners.

10. On an overall appreciation of the entire facts and circumstances surrounding the case, this Court is pained to point out that rather than redressing the grievance of the petitioners, who are residents of a village, where people go kilometers away to get even drinking water, the petitioners have been slapped with the present FIR, necessitating them to come out of the rigours of law. If this Court fails to exercise its inherent jurisdiction u/s 482 Cr.P.C. in this case, not only a just and reasonable case would not be available for this Court to exercise the said jurisdiction, but it would be travesty of justice, if this Court fails to exercise its inherent jurisdiction. In the backdrop of the above discussions, this Court has no hesitation to hold that the complaint filed in view of the agitation conducted by the petitioners deserve to be quashed.

11. Accordingly, for the reasons aforesaid, this Criminal Original Petition is allowed and S.T.C.NO.1109 of 2017, on the file of learned Judicial Magistrate, Dharapuram, is quashed. Consequently connected miscellaneous petition are closed.

12. Before parting with this case, this Court hopes and trust that the governmental machinery find ways and means to redress the grievance of the villagers pertaining to the village



to which the petitioners belong, so that the basic requirement for sustained living of the villagers is provided.

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Sd/-
Assistant Registrar (CCC)

// True Copy//

Sub Assistant Registrar

sk/GLN

To

1. The Judicial Magistrate,
Dharapuram.
2. The Inspector of Police,
Alangiyam Police Station,
Dharapuram Taluk,
Tiruppur District.
3. The Public Prosecutor,
Madras High Court.

CRL.O.P.No.8784 of 2018

PA (CO)
SU (09/08/2021)