

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2021

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

CrI.OP.No.3853 of 2021

and

CrI.MP.No.2295 and 2299 of 2021

1. K.Sathik Basha
2. J.M.Hasan Babu
3. A.Sahul Hameed
4. A.Jamis
5. K.Kathar Ushen
6. A.Mohamed Mansoor
7. T.Abdul Rahman
8. A.Mohamed Ismail
9. S.Tharvob Mideen
10. S.A.Liyakath Ali
11. Mohamed
12. K.Mohamed Yunus
13. M.Jamaludeen
14. S.Ubaitullah
15. Sabeer Ahamed
16. M.Mirthals
17. S.Sayed Basha
18. Farhan Ahmed
19. K.Nivas
20. S.Sayed Mohamed
21. A.Sabeer Ullah
22. S.Sulaiman
23. S.Sayed Musthafa
24. M.Davud Ali
25. Mohamed Hasan Ali
26. A.Sirajudeen
27. S.Brosh Babu
28. A.Sulaiman Settu
29. Shajahan
30. S.Abdul Rahman

सत्यमेव जयते

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... Petitioners

.Vs.

1. The State rep.by
Inspector of Police,
Erode Town Police station,
Erode.

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.1619 of 2015, on the file of Judicial Magistrate II, Erode and quash the same as illegal and without Jurisdiction.

For Petitioners : Mr.I.Abdul Basith

For Respondent : Mr.C.Raghavan

Government Advocate for R 1

O R D E R

This Criminal Original Petition has been filed seeking to quash the proceedings in S.T.C.No.1619 of 2015, pending on the file of the learned Judicial Magistrate, Erode.

2. The case of the prosecution is that the accused persons formed themselves into an unlawful assembly and indulged in an agitation and thereby caused confusion among the general public. After the completion of the investigation, a final report has been filed by the respondent Police for an offence under Section 143 , 145, 341 r/w.149 and 188 of IPC.

3. Heard Mr.I.Abdul Basith, learned counsel for petitioner and Mr.C.Raghavan, learned Government Advocate appearing for respondent.

4.In order to sustain a charge under Section 143 of IPC, the prosecution must fulfill the requirements of Section 141 of IPC which defines an unlawful assembly. The prosecution must be able to bring the case within the five ingredients as specified under Section 141 of IPC. In the present case, the prosecution has alleged that the petitioner has committed an offence under Section 341 of IPC. In order to constitute an offence of wrongful restraint, the prosecution has to fulfil the requirements of Section 339 of IPC. To bring a case under Section 339 of IPC, there must be a prima facie material to show that there is a voluntary obstruction of any person and through such obstruction the accused person should have prevented that person from proceeding in any direction in which he has a right to proceed. In other words, the accused persons should have physically restricted the normal movement of a person.

5.In the present case, the allegation made against the accused persons is that they involved in an agitation and thereby caused disruption to the traffic. The allegations made

in the final report and the statement of the witnesses does not either make out an offence under Section 143 of IPC or under Section 341 of IPC.

6.In view of the above, no useful purpose will be served in continuing with the criminal prosecution against the petitioners and accordingly, the proceedings in S.T.C.No.1619 of 2015, on the file of Judicial Magistrate II, Erode, is hereby quashed and this criminal original petition is accordingly allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RKA

To

1. The Judicial Magistrate II, Erode.
2. The Inspector of Police,
Erode Town Police station,
Erode.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.Abdul Basith, Advocate, S.R.No. 12495

CRL.O.P.No.3853 of 2021 and
Crl.MP.No.2295 and 2299 of 2021

AK-II(CO)
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