



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.06.2021

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Cr1.OP No.9728 of 2021

and

Cr1.M.P Nos.6016 and 6017 of 2021

1.A.Mohamed Musthafa
2.Mahabuth Basha
3.K.Muhamathullah
4.R.Abdul Razaak
5.S.Kamarudeen
6.Meeran Ushen
7.M.Musikul Sak
8.Abdul Rahman
9.T.Anwar
10.S.Sathar

... Petitioners/4,9,11,13,17,18,19,33,36,37 Accused

vs.

1. The State Rep. by its
The Inspector of Police,
Erode Town Police Station
Erode.

2. Ravi Kumar

...Respondents

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 pending on the file of the Judicial Magistrate-II, Erode and quash the same as illegal.

For Petitioners : Mr. I.Abdul Basith

For Respondents : Mr.A.Damodharan for R1
Counsel for Government of Tamil Nadu
(Criminal Side)

ORDER

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 Judicial Magistrate-II, Erode.



WEB 6688

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 Sections 143, 145, 341 r/w 149 and 188 of IPC.

3. Heard Mr.I.Abdul Basith, learned counsel for petitioner and Mr.A.Damodharan, Counsel for Government of Tamil Nadu appearing for the first 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 petitioners have committed an offence under Section 341 of IPC. In order to constitute an offence of wrongful restraint, the prosecution has to fulfill 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 do 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 the Judicial Magistrate-II, Erode, is hereby quashed and this Criminal Original Petition is accordingly allowed. Consequently, connected Miscellaneous Petitions is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate-II, Erode

2.The Inspector of Police,
Erode Town Police Station
Erode.

3.The Public Prosecutor,
High Court of Madras,
Madras.

CrI.O.P. No.9728 of 2021
and CrI.M.P Nos.6016 & 6017 of 2021

GPL (CO)
K.RK. (20.07.2021)