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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.14265 of 2021

and

Crl.M.P.Nos.7788 & 7797 of 2021

1. Inbakani,
2. R.Vilvanathan
S/o, Ramasamy
3. R.Parthasarathy,
S/o, Ranganathan
4. J.Damodaran
S/o, Janakiraman
5. K.Ragavan
S/o, Kothandaraman
6. S.Magendiran
S/o, Shanmugam
7. K.Periyar Chitan
S/o Kathavarayan
8. G.Manjunathan
S/o, Gopal
9. S.Shanmuga Priyan
S/o, Munusamy

... Petitioners

Versus

1. The Sub Inspector of Police,
F-1, Chintadripet Police Station,
Chennai 600 002.
2. Gajendran,
Special Sub-Inspector of Police,
F-1, Chintadripet Police Station,
Chennai 600 002.

... Respondents



PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the C.C.No.6667 of 2019 on the file of the learned Metropolitan Magistrate, XIV, Egmore and quash the same.

For Petitioner : Mr.S.Kumara Devan

For R1 : Mr.A.Damodaran
Government Advocate,
(Criminal Side)

ORDER

This Criminal Original Petition has been filed by the petitioners to call for the records relating to the C.C.No.6667 of 2019 on the file of the learned Metropolitan Magistrate, XIV, Egmore and quash the same.

2. The petitioners/accused in C.C.No.6667 of 2019 facing trial for the offences under sections 143, 353 of I.P.C and 41 of TN City Police Act, 1888, have filed this quash petition.

3. Gist of the case is that on 08.04.2019, at about 3.45 pm, near Periyar statue, Mount Road, the Deputy Secretary of Dravidar Party along with other office bearers and party members (15 in Nos.) had formed an unlawful assembly without obtaining any prior permission from the authorities, had raised slogans against the State and Central Government, showing protest for the damages caused to the Periyar statue at Aranthangi, Pudukottai District.

4. The defacto complainant attached to the respondent police who was in duty, requested the petitioners to disperse them and asked them not to create obstruction for the free flow of traffic and for the public. Despite the same, they failed to disperse and when they were attempted to be arrested, they moved out from the scene of occurrence. Hence special report came to be filed, based on which, F.I.R. in Crime No.148 of 2019 came to be registered on 08.04.2019 and after completion of investigation, charge sheet filed on 17.04.2019 for the offence under sections 143, 353 of I.P.C read with 41 of TN City Police Act.

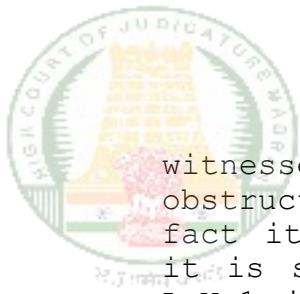
5. The contention of the petitioner is that the petitioners belonging to the Dravidar Kazhagam Party shown their protest, over the damage caused to their founder leader statue at



Aranthaangi, they had shown their protest in a democratic manner. Since their founder leader Periyar statue is situated at Mount Road, Chennai, symbolically the protest was held in front of the statue. After showing their protest, they dispersed within a minute from the scene of occurrence and no obstruction caused and a false complaint has been lodged against the petitioners by the respondent police. The defacto complainant in this case is a S.S.I attached to the respondent police. No public had given any complaint. Further on the date of protest, there was no prohibitory order issued by the Commissioner of Police. Further raising protest and showing their respect is a fundamental right for every citizen which cannot be termed as unlawful and illegal, more so, when there is no complaint from any public. Further they placed reliance, on the decision of this Court reported in Jeevanandham and others Vs. State represented by the Inspector of Police, Velayuthampalayam Police Station, Karur District and another reported in 2018 (2) LW(Crl) 605. It is seen that nowhere in the complaint, it is mentioned that any of the public was obstructed, and any public servant in carrying out their official duty. The defacto complainant asked the petitioners to disperse and thereafter they got dispersed. Further they also placed reliance on the decision of this Court in Crl.O.P.No.1356 of 2021 dated 09.07.2021 that on a similar situation, this Court had quashed the proceedings.

6. The learned Government Advocate appearing for the official respondent would submit that in this case, on the special report given by the S.S.I attached to Chintadripet Police Station, F.I.R came to be registered on 08.04.2019. Thereafter, investigating officer conducted investigation, visited the scene of occurrence and examined the eye witnesses. L.W.1 is the complainant. L.Ws.2 and 3 are the private persons who were present in the scene of occurrence and also witnessed the protest. L.Ws.4 and 5 are the head constables attached to the respondent police who had come to the scene of occurrence in aid of L.W.1. L.Ws.6 and 7 are the witnesses for the observation mahazar and the rough sketch. L.W.8 is the Investigating Officer who filed the final report. In this case, after completion of investigation, charge sheet filed on 17.04.2019. Thereafter the trial court on perusal of the materials finding prima facie case against the accused, taken the case on file and issued summons. On receipt of the same, the petitioners rushed to this Court.

7. Considering the rival submissions and perusal of the materials, it is seen that the petitioners are members of Dravidar Kazhagam. staged a demonstration, for damaging Periyar statue in Pudukottai. They shown their protest by raising slogans for few minutes and they got dispersed. None of the



witnesses specifically stated that there was a commotion and obstruction of traffic or the movement of general public. In fact it is stated initially although 15 persons were involved, it is seen that the charge sheet is filed against 10 persons. L.W.1 is passer-by and he giving the name and position of the petitioners in the organization is highly artificial. L.W.2 is the fruit vendor having a shop in the pavement who is under the mercy of police, other witnesses are police personnels. From the statements and the materials collected, it can be held that the petitioners have not committed any offence.

8. Further in the circumstances, the prosecution failed to show that whether any trouble or injury caused to the public and the right to hold protest is the hallmark of democracy which cannot be termed as offence. The petitioners raised slogans, objected for the damage of their leader statue which are emotional, unintentional, further showing protest by raising slogans is a fundamental right. There is nothing to show prohibiting order was in force, and it was propagated as per law.

9. In view of the same, the proceedings in C.C.No.6667 of 2019 pending on the file of the learned XIV Metropolitan Magistrate, Egmore, Chennai against the petitioners and other accused are hereby quashed. Accordingly the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mfa

To

1. The Metropolitan Magistrate XIV,
Egmore.
2. The Sub Inspector of Police,
F-1, Chintadripet Police Station,
Chennai 600 002.
3. The Special Sub-Inspector of Police,
F-1, Chintadripet Police Station,
Chennai 600 002.



4. The Public Prosecutor,
High Court,
Madras.

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+1cc to M/s.S.Kumara Devan, Advocate, S.R.No.40952

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and
Crl.M.P.Nos.7788 & 7797 of 2021

RGN(CO)
SU(17/09/2021)