



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.15551 OF 2021

AND

CRL.M.P.NOS.8487 & 8488 OF 2021

M.Sabarinathan

... Petitioner

.Vs.

1. The State,
Rep. By the Inspector of Police,
B2-Esplanade Police Station,
Georgetown, Chennai.

2. T.Radhakrishnan

... Respondents

PRAYER:- Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.2392 of 2019 on the file of the Metropolitan Magistrate - VII, Georgetown and to quash the same.

For Petitioner : Mr.J.Kingsly Solomon

For Respondent : Mr.E.Raj Thilak
No.1 Additional Public Prosecutor

O R D E R

The petitioner, who is the 4th accused in Crime No.181 of 2015 of 2015 and who is facing trial in C.C.No.2392 of 2019 for offences under Sections 143, 332, 506(2), 147, 148, 341, 323, 324, 336, 353 and 34 IPC on the file of the Metropolitan Magistrate VII, George Town, has filed this quash petition.

2. The gist of the case is that on 04.02.2015 at about 2.00 p.m. within the jurisdiction of the respondent police, Dr.Ambedkar Government Law College is situated. The petitioner along with the others formed into an unlawful assembly before the Kuralagam Junction showing protest and raising slogans for shifting of the law college from Parry's corner to another



place. These persons have squatted on the road, obstructed the traffic and free movement of the public. The Inspector of Police, attached to the respondent police station, along with his men had gone there and informed the petitioner and others that without proper permission, these students, under the leadership of one Panchamoorthy, had caused obstruction to the public and they were asked to disperse. They failed to heed to the advice and warning of the respondent police, thereafter, there was stagnation of traffic and obstruction to public. Thereafter, the petitioner and others were asked to disperse, they failed to heed to their advice. When the protesters were attempted to be moved away, there was commotion. The petitioner along with the others, using sticks, stones and other articles started attacking the police personnel (20 of the police men), who were Armed police and who were present in the scene, got injured and they have also attacked the public. Hence, a case came to be registered. On conclusion of the investigation, charge sheet was filed listing LW1 to LW34 and documents.

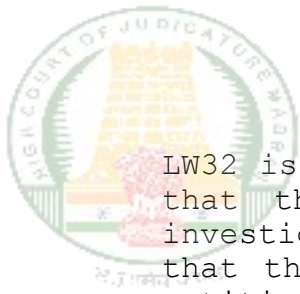
3. The contention of the learned counsel for the petitioner is that the petitioner was a student of Dr. Ambedkar Law College, Chennai. During the year 2015, at that time, the authorities have decided to shift the college from the Parry's corner, but the purpose, for which, the college was located adjacent to the High Court was for the purpose that the students will have easy accessibility to the Courts to get educated, gain knowledge about the functioning of the Court and also get guidance of the advocates and Seniors. The attempt to shift the college to an isolated place was causing great inconvenience to the students, who are the future advocates. The students were not consulted before shifting of the college and it was suddenly announced. Hence, there was spontaneous protest from the students. Admittedly, more than 150 students have gathered, shown their protest, so that, the authorities would reconsider the decision of shifting the college. The Armed Reserved Police Battalion was deployed, who without any provocation used force, caused lathi charge, wherein, several of the students got injured. The entire incident is a creation of the respondent police. As far as the students are concerned, they were peacefully showing their protests by way of demonstration to the people. Further, submitted that there was more than 150 students, for what reason, only 16 of them have been charge sheeted, these persons name, identity, how the police was aware of is not known. The police, in a partisan manner, conducted the investigation. Further, in this case, though it is alleged that 20 of the Armed Reserved Police have been injured, none of got treatment and there is no contemporary medical records to show that they were injured. The seizure shown from the scene of occurrence are common articles, normally available. In this case, major of the witnesses are police personnel and the other witnesses, are



pavement vendors, obliging witnesses. The petitioner has now, completed his law course and when he applied for enrollment, at that time, he was informed about the pendency of the above case against him and he was not aware of the case earlier. Further, the petitioner enrollment is withheld due to the above case and his dream of becoming an Advocate and to make his livelihood and to come up in the profession, have become questionable one.

4. The learned Public prosecutor submitted that in this case, the Inspector of police, Esplanade police station, lodged a complaint, who was present in the scene of occurrence along with the Armed Reserved Police to disperse the law college students, who were holding the protest near the Kuralagam an important busy junction, thereby causing obstruction to the traffic and to the general public, which caused cascading effect in the other part of the city, which came to stand still. The petitioner and the other accused got not any permission to hold protest and that too in the middle of the road causing obstruction. The petitioner and others were warned to get dispersed. They failed to heed the advice and forced the police to use force. At that time, the petitioner and others already had stone and sticks and they started assaulting the police personnel, who got severely injured. The public ran helter-skelter and shops were closed and the scene appeared as a war zone. Thereafter, finding that the petitioner and other students under the leadership of one Panchamoorthy committed the offense, the police, after registration of the FIR, enquiring the witnesses present in the scene of occurrence, seized the articles under cover of mahazer, recorded the statement of the witnesses and filed the final report listing LW1 to 34 and documents. The petitioner in a preplanned manner with other students had formed into a unlawful assembly, obstructed the traffic and caused injuries to the police persons and also the public, further restrained the police from discharging their duty. Hence, strongly objected to quash the case.

5. Considering the rival submission and on perusal of the materials, it is seen that the occurrence had taken place, while the petitioner along with his collegemates joined and shown their protest for shifting the Dr.Ambedkar law college from Parrys Corner, which is functioning in the parry's corner for decades together. Due to the shifting of the college spontaneous protest erupted resulting in the FIR. It is mentioned that there were 150 persons, but only 15 persons alone are charged, for what reason, the others let off, no reason given, moreso, when the offence including Section 143 IPC has been invoked. Further, the witnesses cited LW1 to LW11 are police personnels. LW12 to LW25 are platform vendors. LW26 to LW29 are witnesses present in scene of occurrence and LW30 & LW31 are the witnesses of observation mahazer and rough sketch.



LW32 is a Doctor, who had examined the injured person and stated that the injuries are simple in nature. LW33 & LW34 are investigating officer. On perusal of the statements, it is seen that the students are in patriarch vision, the identity of the petitioner and other accused, the name and details of the petitioner and other accused found in the FIR creates some doubts, when they are not known to the respondent police, how come, they have been fixed, there is no materials to substantiate it. Further, in this case, the witnesses, for the first time, have seen the accused, no identification parade conducted to confirm their participation. The witnesses generally stated about the students showing protest and at that time, there was commotion and nothing more. Further, the shifting of law college from the parry's corner was an emotional issue, and Law college functioning adjacent to High Court and City Civil Court for decades together, dislocation and new area selection was without reasons. The accessibility to the Court is denied. The strategic location was for the reason that the students got familiarized and adopt to the profession and gain knowledge of Court proceedings. It was a spontaneous protest, most number of students, who participated in the protest were let off, this petitioner and other accused alone are proceeded with. Now, after the registration of the case, the petitioner had not come in any adverse notice. Finding that, it was spontaneous protest and all students now graduated, qualified to be enrolled and to pursue their law profession. Every student have their dreams and every law student and their parents would wish to see a successful lawyer, which cannot be denied.

6. In view of the same, this Court finds that the continuation of the proceedings against the petitioner would amount to abuse of process of law. Further, in this case, the petitioner/ A4 alone has come before this Court though there are 15 other persons, who are similarly situated students. Though they have not come to this Court, this Court finds that the benefit of this order should be given to all 15 persons as well. Accordingly, this Criminal Original Petition stands allowed and as a sequel, the proceedings in C.C.No.2392 of 2019 pending on the file of the learned Metropolitan Magistrate VII, George Town, Chennai, is quashed not only for the petitioner but against all the persons, who are arrayed as accused therein. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VII)

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Sub Assistant Registrar



sms

To

1. The Metropolitan Magistrate-VII,
Georgetown, Chennai.
2. The Chief Metropolitan Magistrate,
Chennai,
3. The Inspector of Police,
B2-Esplanade Police Station,
Georgetown, Chennai.
4. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.J.Kingsly Solomon, Advocate, S.R.No.61216

CRL.O.P.NO.15551 OF 2021 AND
CRL.M.P.NOS.8487 & 8488 OF 2021

SSI (CO)
PBS/07/12/2021