



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17078 of 2021
and Crl.M.P.Nos.9338 & 9340 of 2021

1.Prince Ennarasu
2.Shoban Babu
3.Velavan
4.Niranjan
5.Vengadesan
6.Suresh
7.Ramesh
8.Inbakani

...Petitioners/Accused 1 to 8

Vs.

The Sub Inspector of Police,
Nungampakkam Police Station,
Chennai - 600 034.
[C.C.No.2521 of 2020]

...Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the C.C.No.2521 of 2020 on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

For Petitioners : Mr.S.Kumara Devan

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

O R D E R

This Criminal Original Petition is filed to call for the records relating to the C.C.No.2521 of 2020 on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai and quash the same.

2.The case of the prosecution is that on 19.12.2019 at about 11.00 p.m. during the patrol at Nungambakkam Sasthri Bhavan under the leadership of first petitioner herein the other petitioners without any prior permission to protest against the



Citizenship Amendment Act enacted by the Central Government of India, held protest and caused nuisance to the public. Further, it is stated that the defacto complainant asked the petitioners to disperse from the said occurrence place. But the petitioners herein failed to obey the order. Hence, the respondent arrested the petitioners herein and registered a case for the offence under Section 143 of IPC, Section 41 of Tamil Nadu City Police Act and Section 7(1)(a) of Criminal Law Amendment Act, 2005 in Crime No.130 of 2020. The respondent police filed a charge sheet before the XIV Metropolitan Magistrate Court, Egmore and the same was taken on file and assigned C.C.2521 of 2020.

3.The contention of the petitioners is that the respondent police without conducting proper enquiry filed a charge sheet in a mechanical manner by showing the petitioners as accused. Further submitted that due to the political pressure, the respondent registered a case and filed charge sheet before the XIV Metropolitan Magistrate Court, Egmore, in C.C.No.2521 of 2020. In the final report, there is nothing except reference to the gathering and expressing opinion against the ruling Government. It is mere an expression of opinion. The freedom of speech and expression is guaranteed under the Constitution and nowhere mentioned, that particular offence is committed. The offence cannot be made out by mere stating facts. Specific overtact of the accused to be stated, supported with statements and documents. Thus no prima facie case is made out against the petitioners for the aforesaid offences. The learned XIV Metropolitan Magistrate, Egmore, insisting the petitioners to face the case, and the case is posted on 10.11.2021, for appearance of the petitioners. Since, there is no offence made out in the charge sheet, having no other option except to file this quash petition. Hence the criminal proceedings initiated against the petitioners in C.C.No.2521 of 2021 pending on the file of the learned XIV Metropolitan Magistrate, Egmore, is liable to be quashed.

4.The learned Additional Public Prosecutor submits that in this case on 19.12.2019, at about 11 p.m., at Nungambakkam Sasthiri Bhavan under the leadership of first petitioner herein the other petitioners without any prior permission to protest against the Citizenship Amendment Act enacted by the Central Government of India, held protest, caused nuisance to the public and disobeyed the prohibitory orders passed by the police officers. The petitioners refused to disburse, on the other hand, they raised slogans and caused disturbance to the public. The petitioner and others without obtaining permission from the authorities concerned have formed themselves into an unlawful assembly restrained others and caused public nuisance and disturbance.



5.Considering the rival submissions and on perusal of the materials it is admitted fact that the petitioners and others raised protest which is their fundamental right, no public lodged complaint and no public got affected, due to the protest conducted by the petitioners. Hence, this Court finds that the petitioners and others have only raised slogans and shown protest against the Citizenship Amendment Act enacted by the Central Government of India. Raising slogans against the Government itself would not amount to commission of offence, by dissenting and showing Protest is the Hallmark of Democracy, which is a fundamental right under Constitution of India.

6.The petitioners and others raised slogans against the Government. Admittedly in these cases, the occurrences took place in a public place, in public view, surprisingly no public or independent witness examined by the prosecution, which causes serious doubt on the veracity of the complaint. Further, this Court in the case of "Jeevanandham and others Vs. State Rep. by Inspector of Police and another reported in (2018) 2 LW CrL. 606" had clearly held that the police officials are not empowered to register a case under Section 188 IPC and the same is barred under Section 195 Cr.P.C. There is no material to show that there was any promulgation of prohibitory orders which was communicated to the public and there was any disobedience by the petitioner. Further, in consequence to the protest, the prosecution failed to show whether any trouble occurred. The respondent Police failed to follow the guidelines issued by this Court in Jeevanandham (Cited Supra). In several cases, this Court quashed the proceedings against the accused/protesters on similar ground.

7.In the result, the final report filed by the respondent in C.C.No.2521 of 2020 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai is hereby quashed against the petitioners.

8.Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar



To

1.The XIV Metropolitan Magistrate,
Egmore,
Chennai.

2.The Sub Inspector of Police,
Nungampakkam Police Station,
Chennai - 600 034.

3.The Public Prosecutor,
High Court,
Madras.

+1 CC to Mr.S.Kumara Devan, Advocate sr 48092.

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GPL (CO)
SP(10/11/2021)