



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17887 of 2021

and

Crl.M.P.Nos.9823 & 9824 of 2021

1. Raja Ushen
2. Ansar Sheriff
3. A.H.Mohamed Izath
4. Abdul Rahim
5. Syed Ibrahim
6. Abdul Kather
7. A.Anwar Ushen
8. Rahubunisthar
9. Syed Ali
- 10.Mohamed Rabick
- 11.Anif Khan @ Bahadursha
- 12.Mohamed Mustafa
- 13.Sahul hameed
- 14.Mustafa
- 15.Rabick
- 16.Ameer Ali

... Petitioners/Accused
No.1,3,5,7,8,10,11,14,
15,28,32,41,46,57,73 & 81

Versus

1. State Rep by its
The Inspector of Police,
Race Course Police Station,
Coimbatore.
(Cr.No.698/2019)

2. Ramesh. M

... Respondents/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in S.T.C.No.15694/2019 pending on the files of the Judicial Magistrate Court - III, Coimbatore and quash the same as illegal.



WEB COPY

For Petitioner : Mr.I. Abdul Basith.

For Respondent : Mr.A.Damodharan,
Addl. Public Prosecutor
For R1.

ORDER

The petitioners, who are facing trial in S.T.C.No.15694 of 2019, for offence under Sections 143, and 341 IPC before the learned Judicial Magistrate No.III, Coimbatore, has filed the Quash Petition.

2.The case of the prosecution is that on 22.10.2019, at about 05.15 p.m., the petitioners along with other accused persons illegally assembled in front of the District Collector Office, Coimbatore and conducted protest in the public road, without any prior permission, and condemning the delay of releasing one Bilal Hajiyaar, who was imprisoned in spite of the order of the Hon'ble High Court. Hence, they were arrested and a case in Crime No.698 of 2019 for offence under Sections 143, and 341 IPC was registered. On completion of investigation, the 1st respondent Police filed the charge sheet before the Judicial Magistrate Court-III, Coimbatore, listing 22 witnesses as LW1 to LW22 and annexing documents.

3.The learned counsel for the petitioners submitted that the petitioners and other accused are falsely implicated in this case and the registration of the case is not only illegal, but also violation of the petitioners' fundamental rights. Showing protest is the hallmark of democracy and it is a fundamental right enshrined in the Constitution of India. Article 19(a) confers Freedom of Speech; Article 19(1)(b) confers Right to Assemble; 19(1)(d) permits peaceful march. The peaceful protest in non violent manner would no way attract the violation of any directions and rules. Without conducting proper enquiry, they filed a charge sheet, in a mechanical manner, by showing the petitioners and others as accused. In the final report, there is nothing except reference to the gathering and expressing opinion with regard to the confinement of one Bilal Hajiyaar. 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. 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 STC No.15694 of 2019 pending on the file of the learned Judicial Magistrate-III, Coimbatore, is liable to be quashed.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police submitted that the petitioners and others, without obtaining permission from the authorities concerned, have formed themselves into an unlawful assembly restrained others and caused public nuisance and disturbance. Hence, they were arrested and later, let out on station bail. Thereafter, the witnesses were examined and charge sheet made ready and filed before the Judicial Magistrate-III, Coimbatore and the same was taken cognizance as STC No.15694 of 2019. The trial Court had taken the cognizance of the case, issued summons and thereafter, the petitioners approached this Court. The points raised by the petitioners are to be decided only during the trial and not in the Quash Petition.

5. This Court considered the rival submissions and perused the materials available on record.

6. It is admitted fact that LW1 is the complainant (2nd respondent), who had registered the case in Crime No.698 of 2019 against the petitioners and others. The complainant himself had taken up the investigation, examined the witnesses. Apart from 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 and others. Hence, this Court finds that the petitioners and others have only raised slogans and shown protest with regard to the delay in releasing one Bilal Hajiyyar. 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.

7. Thus, the continuation of the proceedings would amount to abuse of process of law and hence, this Court is inclined to quash the proceedings against petitioners and also the other accused who are all similarly placed as that of the petitioners.



8. This Criminal Original Petition is allowed and the proceedings in S.T.C.No.15694 of 2019 pending on the file of the Judicial Magistrate No.III, Coimbatore is hereby quashed against all the accused. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

mrp/mdl

To

1. The Judicial Magistrate III,
Coimbatore.
2. The Inspector of Police,
Race Course Police Station,
Coimbatore.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.17887 of 2021
and
Crl.M.P.Nos.9823 & 9824 of 2021

NMI (CO)
SU(15/12/2021)