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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23407 of 2021

and

Crl.M.P.Nos.12848 & 12849 of 2021

Ethiraj

... Petitioner

Versus

1. The State rep. by,
The Inspector of Police, Law & Order,
G1-Vepery Police Station,
Chennai District.
(Crime No.411/2018).

2. Veerakumar.T

... 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.377 of 2019, on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai and to quash the same.

For Petitioner : Mr.R.Thamarai Selvan

For R1 : Mr.E.Raj Thilak,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.377 of 2019, on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai.

2.The gist of the case is that on 03.07.2018, at about 11.00 a.m., when the 1st respondent Police and his team were on patrol duty, seven persons belonging to the Tamil Nadu Congress Party under the Leadership of one Nareshkumar/A1 had assembled in the public place without getting permission and raised slogans against the public functionary and caused disturbance to the public and free movement of traffic. When they were asked to disperse and not to create any law and order problem, they had



failed to do so. Hence, they were arrested in the spot by the 1st respondent Police and a case in Crime No.411 of 2018 was registered, for offence, under Sections 143 & 290 and Section 41 of the Tamil Nadu City Police Act, 1888. After completion of investigation, charge sheet was filed before the trial Court and the same was taken on file as C.C.No.377 of 2019, listing 8 witnesses as LW1 to LW8. As against which, the present Criminal Original Petition.

3.The learned counsel for the petitioner submitted that at the time of occurrence, the petitioner is the law college student, who shown protest in a democratic manner which is a right guaranteed under the Constitution of India. According to the 1st respondent Police, it was seven persons, who were assembled at E.V.K.Sampath Salai, Chennai, which is a broad road. The petitioner along with other accused held protest in the corner of the road. It is not the case that the petitioner and other accused blocked the free movement of traffic and caused any inconvenience to the public. The learned counsel further submitted that out of either witnesses, LW1 to LW5 & LW8 are police personnels and no public person was examined as witness. LW6 and LW7, who are witnesses to the Observation Mahazar and Rough Sketch, are street vendors and obliging witness to the Police. It is highly improbable that no public had come to lodge a complaint, which would prove the fact that the 1st respondent Police projected a false case against the petitioner and other accused. The petitioner and other accused are law college students, who were raised slogans against the public functionary and nothing more.

4.He further submitted that the petitioner is the student of the Chennai Dr.Ambedkar Government Law College, Pudupakkam. The petitioner was not aware about the registration of the above case and he came to know about the same, only when he approached for getting enrolment in the Tamil Nadu Bar Council. The petitioner on dedication and hard work had completed the law course and he has big aim in law to profession. Due to the pendency of the above, the petitioner unable to get enroled and his entire carrier is now questionable. Hence, he prayed for quashing of the proceedings against the petitioner.

5.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that the Inspector of Police attached to the 1st respondent Police Station along with other Police were on patrol duty and found the petitioner and other accused, under the leadership of one Nareshkumar/A1, had formed themselves unlawfully without any permission in front of the office of the Commissioner of Office, Vepery, Chennai and



started raising slogans against the public dignitaries without any reason or cause. When they were asked to disperse, they failed to do so. Hence, the 1st respondent Police has registered a case against the petitioner and other accused and examined the witnesses and after completion of investigation, filed the charge sheet before the trial Court. The trial Court, on perusal of the charge sheet, finding prima facie material against the accused, had taken the case on file and issued summons to the petitioner. Therefore, the points raised by the petitioner are to be decided only during trial and not in this petition and he prayed for quashing of the proceedings.

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

7.In this case, LW1 to LW5 & LW8 all are Police personnels and no independent person or public has been examined as witness. LW6 and LW7 are obliging witnesses to the Police. All the statement of witnesses are parrot like version. The petitioner is a law college student, who held protest in a democratic manner along with other accused in the corner of E.V.K.Sampath Salai, Chennai, opposite to the office of the Commissioner of Police, Vepery Chennai. Showing protest and raising slogans without any disturbance to public and free movement of traffic, is permissible in law. Right to Dissent is the Hallmark of Democracy, the petitioner and other accused only expressed their displeasure which is their fundamental right.

8.The petitioner is the students of the law college, who are normally active and be the first person to show protest against any irregularities. There is no material to show promulgation of any prohibitory order which was communicated to the public and there was any disturbance by the petitioner.

9.The petitioner now completed his law degree with lot of hope to render service to the society and to come up in the profession. Admittedly, in this case, other than LW5 and LW6, who are street vendors, no public witness examined. Thus, the allegations made in the charge sheet, even if taken at face value and accepted in entirety do not prima facie constitute any offence or make out a case against the accused.

10.In view of the above, the proceedings in C.C.No.377 of 2019, on the file of the Chief Metropolitan Magistrate Court, Egmore, Chennai, is hereby quashed against the petitioner and



also against all other accused, who are similarly placed. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Metropolitan Magistrate,
Egmore,
Chennai.
2. The Inspector of Police, Law & Order,
G1-Vepery Police Station,
Chennai District.
3. The Public Prosecutor,
High Court, Madras.

CRL.O.P.No.23407 of 2021

BR[co]
NSK 28/12/2021