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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.24162 of 2021

and

Crl.M.P.Nos.13325 & 13326 of 2021

1.Madhan Mohan
2.S.K.Raj
3.Jegadeesan
4.M.C.B.Elayaraja
5.K.Magesh
6.Kumar @ Thoppaulan Kumar ... Petitioners

Versus

1.The State Rep. by,
The Inspector of Police,
F-1, Chintadripet Police Station,
Chennai.
Crime No.55 of 2020.

2.Jegan Prabhu ... 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.4021 of 2020, on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai and to quash the same.

For Petitioner : Mr.K.Karthik
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.4021 of 2020, on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai.

2.The gist of the case is that on 02.02.2020, at about



10.30 a.m., near Chinthadripet market, under the leadership of Anbazhagan (died), former MLA, the petitioners have assembled without getting any prior permission from the concerned authority and have shown protest against the Citizenship Amendment Act and also restrained the free movement of public and traffic. When they were asked to disperse by the 1st respondent Police team, they refused the same. Thereafter, the petitioners along with the said Anbazhagan were arrested and a case in Crime No.55 of 2020 was registered against them. After completion of investigation, charge sheet was filed against the accused listing five witnesses as LW1 to LW5.

3.The learned counsel for the petitioners submitted that the defacto complainant/2nd respondent in this case is none other than the Grade-I Police Constable attached to the 1st respondent Police. For an occurrence said to have taken place on 02.02.2020, the 1st respondent Police registered the FIR in Crime No.55 of 2020 after 15 days on 17.02.2020 and no reason has been given for the delay. The deceased Anbazhagan was a former MLA and there was spontaneous protest by the general public against the Citizenship Amendment Act. As a representative of the people, to show the displeasure, protest was held and the signature of the protesters was collected. He further submitted that none of the public had objected the protest conducted by the accused and no public given any complaint that there was obstruction for free movement of public and traffic. Since the petitioners belong to the opposition party, to brook vengeance, the above false case has been registered against them. The statement of witnesses are parrot version. In this case, LW1 is the Police Constable, LW2 and LW3 are witnesses to the Observation Mahazar witnesses, LW4 is the witness, who worked in a briyani shop near the occurrence and LW5 is the Investigating Officer. Hence, no public or independent witness have been examined by the prosecution. There is no material to show that there was any promulgation of any prohibitory order which was communicated to the public. Hence, he prayed for quashing the proceedings against the petitioners.

4.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that when the 1st respondent Police was on patrol duty, the former MLA along with the petitioners were causing disturbance to the free movement of public and traffic and forcibly obtained signatures from the general public in the protest petition. When the 1st respondent Police requested them to disperse, they failed to heed to the same, on the other hand, they used abusive language and threatening the Police officials as well as the public. Hence,



the FIR came to be registered against them and charge sheet was filed after completion of investigation. Apart from the Police witnesses, three independent witnesses have been examined for preparation of Observation Mahazar and Rough Sketch. Hence, he prayed for dismissal of this Quash Petition.

5.Considering the rival submissions and on perusal of the materials, it is admitted fact that the petitioners held protest near Chindhathripet market, which is their fundamental right. In this case, no public lodged any complaint and no public got affected, due to the protest held by the petitioners. The petitioners have only raised slogans and shown protest against Citizenship Amendment Act enacted by the Government of India.

6.It is seen that the petitioners herein to safeguard the guaranteed fundamental rights provided under the Constitution of India, held protest. From plain reading of the allegations in the charge sheet, the allegations are general in nature and no specific allegations are made against the petitioners to attract the said provisions. Raising slogans and showing protest itself would not amount to commission of offence. Showing Protest is the Hallmark of Democracy, which is a fundamental right guaranteed under the Constitution of India.

7.The petitioners raised slogans against the Government for enacting the Citizenship Amendment Act. Admittedly in this case, the occurrence 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. This Court in the case of "Jeevanandham and others Vs. State Rep. by Inspector of Police and another reported in (2018) 2 LW CrI. 606" had clearly held the right to protest is to be safeguarded not to be termed as criminal offence. 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 petitioners. Further, in consequence to the protest, the prosecution failed to show whether any trouble occurred. The 1st 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.

8.In view of the above, the proceedings in C.C.No.4021 of 2020, on the file of the XIV Metropolitan Magistrate Court, Egmore, Chennai, is hereby quashed against the petitioners. Accordingly, this Criminal Original Petition is allowed.



Consequently, the connected Criminal Miscellaneous Petitions are closed.

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Sd/-
Assistant Registrar(CCC)

Sub Assistant Registrar

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To

1.The XIV Metropolitan Magistrate Court,
Egmore, Chennai.

2.The Inspector of Police,
F-1, Chintadripet Police Station,
Chennai.(Crime No.55 of 2020)

3.The Public Prosecutor,
High Court, Madras.

+2cc to Mr.K.Karthik, Advocate SR.No.68066

CRL.O.P.No.24162 of 2021

KSM(CO)
GN(10/01/2022)