



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CrI.O.P.No.22945 of 2017
and
CrI.M.P.Nos.13370 & 13371 of 2017

G.Thirumurugan

...Petitioner/Accused

Vs

The State rep. by
The Inspector of Police,
D5-Marina Police Station,
Law and Order,
Chennai-600 004.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.7541 of 2017 before the learned XIII Metropolitan Magistrate, Egmore and quash the same.

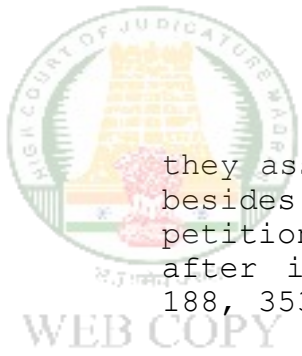
For Petitioner : Mr.N.R.Elango,
Senior Counsel
for Mr.G.R.Deepak

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Criminal Side)

O R D E R

This Criminal Original Petition has been filed to quash the final report in C.C.No.7541 of 2017 pending before the learned XIII Metropolitan Magistrate, Egmore against the petitioner for the offences under Sections 143, 188 @ 188, 353 and 506(i) of I.P.C.

2. The learned Counsel for the petitioner submits that on 18.09.2016, the accused formed an unlawful assembly with other members of the May 17 organization in order to show the protest against the attack on the Tamils living in Karnataka, thereby,



they assembled without any permission and also resist the arrest besides causing the threat. Therefore, the police prosecuted the petitioner and others under Sections 143 and 188 I.P.C. and after investigation final report has been filed under Section 188, 353, 506(i) of I.P.C.

3. The learned Senior Counsel for the petitioner submitted that the case has been foisted against the petitioner with ulterior motive, who alongwith others made a democratic protest supporting the Tamils in the State of Karnataka. At any event, there are no material unearthed to constitute offences charged against the petitioner.

4. Heard the learned Senior Counsel for the petitioner and the learned Government Advocate (Criminal Side) for the Respondent.

5. The entire materials collected by the prosecution indicate that the Petitioner and others assembled to protest against the attack on the Tamils residing in neighbouring State. It is not the case of the prosecution that the accused assembled unlawfully to attract the offence under Section 143 I.P.C. Merely raising any slogans in a democratic way to take certain action to prevent atrocities on the community in the neighbouring State, the same would not be construed as an offence. The entire materials collected through the prosecution indicate that the accused violated promulgation of the Police and assembled. However, there is no material available on record to show that what was the nature of the promulgation which were violated by the accused at that relevant point of time. Further, the prosecution for the offence under Section 188 of I.P.C. is a complaint procedure. The Court cannot take cognizance directly on the Police Report unless the complaint is filed by the concerned public servant, which is not the case here. Similarly to attract the offence under Section 353 I.P.C., the accused should have been resisted their arrest.

6. It is not the case of the prosecution that the accused used any criminal force at the public servant to prevent or deterred him to discharge from his duty and it is also not alleged that the petitioner has used any force against the policemen. Further, there is no material available on record to show that such a verbal threat in fact caused danger to the life of the officials. The same would not constitute an offence under Section 506(i) of I.P.C. Even otherwise mere verbal threat will not sufficient to constitute an offence under Section 506 (i) I.P.C. The prosecution is waste of time and futile exercise.

7. Accordingly, this Criminal Original Petition is allowed and the final report in C.C.No.7541 of 2017 filed against the



petitioner for the offences under Sections 188, 353 and 506(i) of I.P.C. pending on the file of learned XIII Metropolitan Magistrate, Egmore is quashed. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

ggs / kbs

To

1. The XIII Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
D5-Marina Police Station,
Law and Order,
Chennai-600 004.
3. The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.22945 of 2017
and
Cr1.M.P.Nos.13370 & 13371 of 2017

GPL (CO)
RGA (28/12/2021)