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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL.O.P.NO.27465 OF 2017

AND

CRL.M.P.NOS.15693 AND 15694 OF 2017

1.Saroijni
2.Selvi
3.R.Selvi
4.Thangayi
5.Palaniyammal
6.Amsaveni
7.Ananthi
8.Kunjaal
9.Sundarambal
10.Dharmaraj
11.Ananthan
12.Krishnasamy
13.Vannidurai
14.Vithyasagar

...Petitioners

Versus

State by

1.The Inspector of Police,
Kundadam Police Station,
Kundadam Via, Dharapuram Taluk,
Tiruppur District.
(Cr.No.93 of 2017)

2.Murugesan

...Respondents

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in S.T.C. No.759 of 2017, on the file of the Judicial Magistrate, Dharapuram, Tiruppur District and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.S.Vinoth Kumar
Govt. Advocate (Crl. Side) for R1

: No appearance for R2



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ORDER

This Criminal Original Petition has been filed to quash the criminal proceedings in S.T.C. No.759 of 2017, on the file of the Judicial Magistrate, Dharapuram, Tiruppur District.

2. The crux of the prosecution story is that the accused unlawfully assembled in front of the TASMAC shop and opposed the opening of the TASMAC shop in the locality by restraining entry of the staff into the shop and thereby they have committed an offence under Sections 143, 341 and 353 of IPC.

3. Heard both sides and perused the entire materials available on record.

4. Normally, this Court will not interfere with the final report, when there are materials available against the accused. The main crux of the charge is that the accused have shown their protest against setting up a TASMAC shop in that locality. To attract the offence under Section 143 IPC, it must be shown by the prosecution that the act of the accused would fall within clause 1 and 5 of the ingredients found in Section 141 IPC.

5. The very allegations and from the materials collected by the prosecution indicate that the accused in fact shown their lawful protest as against the setting up of a TASMAC shop in the locality, which is causing disturbance to women and children. Therefore, mere showing the protest in a democratic view cannot be construed as an unlawful assembly. Therefore, such protest, at no stretch of imagination, would amount to wrongful restraining of any of the persons and hence the offence under section 341 could be made out. Similarly, mere gathering to show their protest in a democratic manner, the offence under Section 353 also would not be made out if the entire materials are taken as face value. In such view of the matter continuing the prosecution and forcing the large number of persons to undergo the ordeal of trial itself would infringe their right. In such view of the matter, this Court is inclined to exercise the power of this court under Section 482 Cr.P.C. Accordingly, the final report in S.T.C. No.759 of 2017, on the file of the Judicial Magistrate, Dharapuram, Tiruppur District, is quashed.

6. In the result, the Criminal Original Petition is allowed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

psa/asr



To

1. The Judicial Magistrate,
Dharapuram, Tiruppur District.
2. (do through) The Chief Judicial Magistrate,
Tiruppur.
3. The Inspector of Police,
Kundadam Police Station,
Kundadam Via, Dharapuram Taluk,
Tiruppur District.
4. The Public Prosecutor,
High Court, Madras.

Crl.O.P.No.27465 of 2017

VBM(CO)
RVM(21/12/2021)