



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

CRL. O.P. NO. 28259 OF 2017 AND
CRL.M.P.NOS.16050 AND 16051 OF 2017

1.Siva
2.Ramachandran
3.Manickam
4.Chandrasekaran
5.Arunan
6.Ramesh Babu
7.Sekar

. . . Petitioners

Versus

State by
The Inspector of Police,
T-1, Ambattur Police Station
Ambatture, Chennai - 600 053

. . . Respondent

PRAYER :

Criminal Original Petition filed under Section 482 Cr.P.C.,
to call for the records in S.T.C. No.2183 of 2017 pending on the
file of the Judicial Magistrate, Ambattur, Chennai, and quash
the same.

For Petitioner	:	Mr.N.Elayaraja
For Respondent	:	Mr.R.Kishore Kumar Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the
criminal proceedings in S.T.C. No.2183 of 2017 pending on the
file of the Judicial Magistrate, Ambattur, Chennai.

2. The crux of the prosecution case is that, on 07.09.2017
at 13.00 hrs. the accused has unlawfully joined and made a
protest to implement the 7th pay commission and raised the



slogans against the Government, thereby committed an offence under Section 188 IPC.

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

4. On perusal of the entire statement relied upon by the prosecution indicates that excepting stating that the accused, under the leadership of one Siva, unlawfully assembled and raised slogans to implement the 7th Pay Commission, nowhere the identity of the accused who stated to be unlawfully assembled is established in investigation. Similarly, it is not stated what was the nature of the prohibition order under Section 41 of the Chennai Police Act was in force. Therefore when the accused have lawfully demanded their right to implement the 7th pay commission and made a protest democratically, such gathering cannot constitute an offence unless the act of the accused falls within any of the categories enumerated under Section 141 of the Act.

5. It is not the case of the prosecution that the accused have assembled to commit any offence or for the purpose of show of a criminal force or trespass etc to attract the offence under Section 143. Similarly, it is nowhere stated that there was a promulgation issued by the authorities which has been violated to attract the offence under Section 188. That apart, it is to be noted that to take cognizance of the offence under Section 188, the authority ought to have initiated the complaint procedure which has not been done so. Any offence punishable under Sections 172 to 188 of IPC, the Court can take cognizance of such offence on the complaint made by the authorities concerned. Even the entire materials available in the final report taken as such do not constitute an offence. Hence, the continuation of the prosecution is nothing but waste of time and an abuse of process of law. Accordingly, the charge sheet in S.T.C. No.2183 of 2017, on the file of the learned Judicial Magistrate, Ambattur, Chennai. is quashed.

6. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

psa/asr



To

1. The judicial Magistrate,
Ambattur, Chennai
2. The Inspector of Police,
T-1, Ambattur Police Station
Ambattur, Chennai - 600 053
3. The Public Prosecutor,
High Court, Madras.

WEB COPY

Cr1. O.P. No. 28259 of 2017

WRL (CO)
PM/21/12/2021