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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

Crl.O.P.No.35027 of 2019

&

Crl.M.P.No.19318 of 2019

- 1.M.Gunasekaran
- 2.V. Vansanthakumar
- 3.N. Jeevanantham
- 4.M.Manikandan
- 5.N.Ganesamoorthy
- 6.S.Prasath
- 7.Shanmuga Raja
- 8.N.Vibinbharathi
- 9.Padmanaban
- 10.Gunasekaran
- 11.Koyal Vijay
- 12.J.Stalin
- 13.S.Muthukrishnan
- 14.Amal Raj
- 15.A.Subramani
- 16.Rathinavel
- 17.R.Selvakumar
- 18.K.Rohith Kumar
- 19.V.Naveen
- 20.M.Praveen Kumar
- 21.ChandraMohan
- 22.R.S.Arivazhagan
- 23.M.Prasanth
- 24.S.Sebulone
- 25.R.Gokul
- 26.K.Vignesh Kumar
- 27.Maheswaran
- 28.Mohan
- 29.Vigneswaran
- 30.P.Deepika
- 31.S.Poornima Nandhini
- 32.A.Rajani Kannama
- 33.Deepika Alias Kalpana
- 34.A.Jenifer
- 35.R.Renuka
- 36.D.Elicita

... Petitioners



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Vs.

1. The State Represented by its
The Inspector of Police,
Katoor Police Station,
Coimbatore District.
Crime No.351 of 2019.

2. Jayaraj. S

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for records in S.T.C No.4907 of 2019 pending on the file of the Judicial Magistrate No.II, Coimbatore, and quash the same.

For Petitioners : Mr.B.Mohan

For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor

For R2 : No Appearance

ORDER

The petition has been filed seeking to quash the proceedings in S.T.C No. 4907 of 2019 on the file of the Judicial Magistrate Court II, Coimbatore.

2.The case of the prosecution is that on 14.03.2019, the petitioners herein whom they belongs to AISF and AIYF party gathered at Dr.Nanjappa Road, Puspam Bakery, Coimbatore and conducted protest and also raised slogans against the Tamil Nadu Government, with regard to the Pollachi Sexual Offence, without getting any proper permission from the concerned authority. Subsequently, the respondent police arrested the petitioners and registered a FIR against the petitioners. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners were assembled near Dr.Nanjappa Road, Puspam Bakery, Coimbatore, conducted the protest and raised slogans against the Tamil Nadu Government with regard to the Pollachi Sexual offence. In this regard, the Provision under Section 143 of IPC would not attract, mere raising slogans against the Government does not mean the petitioners prevented the Government officials from doing their duty and therefore the



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charges under Sections 143 & 341 of IPC is not applicable to the present case. Furthermore, no violence had happened in that alleged protest, which reveals that protest conducted in peaceful manner. Therefore, he submits that the above charge is not applicable to this present case.

4. The learned Additional Public Prosecutor raised objection stated that without getting proper permission, petitioners conducted protest against the Tamil Nadu Government with regard to Pollachi Sexual Offence and he further submits that after conducting proper enquiry respondent police filed the final report before concerned Court. Hence, he vehemently opposed the grant of bail.

5. Heard both sides and perused the materials placed on record.

6. In the decision relied on by the petitioners reported in 2018 (2) LW (Crl.) 606 : 2019 (1) MLJ (Criminal) 36 Jeevanandam V. State, (Madras) (Madurai Bench), this Court has held as follows:-

26. Crl.O.P.(MD).Nos. 11834, 15529, 15644, 15621, 16244, 16208, 16075 of In all these cases, it is seen that a Final Report has been filed for an Offence under Section 188 and 143 of IPC and cognizance has also been taken by the concerned Judicial Magistrates. In view of the above discussion, the cognizance of the Final Report under Section 188 of IPC is liable to be quashed. Insofar as the offence under Section 143 of IPC is concerned, in all the cases, the concerned Police Officer has quoted Section 30(2) of the Police Act, and therefore, has straight away proceeded to register an FIR under Section 143 of IPC. As stated above, a mere violation of the so-called promulgation under Section 30(2) of the Police Act will not make out an offence under Section 143 of IPC by straight away declaring an assembly of persons to be an unlawful assembly. The power under Section 30(2) of the Police Act is merely regulatory in nature. In fact, Section 32 of the Police Act itself provides for a penalty for disobeying an order issued under Section 30(2) of the Police Act with a punishment of a fine not exceeding 200 rupees. Where as an offence under Section 143 of IPC is punishable with imprisonment for a term which may extend to 6 months. Therefore, a violation of the so-called promulgation under Section 30(2) of the Police Act will not by itself constitute an offence



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under Section 143 of IPC. In all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a ordinary citizen. If such an assembly of persons are to be trifled by registering an FIR under Section 143 of IPC and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.

2. Therefore, the Final Report for an offence under Section 143 of IPC is hereby quashed. Accordingly, all the Criminal Original petitions are allowed, and the Final Report filed in each of the case is hereby quashed.

7. The above Judgement is squarely applicable to the present facts and circumstances of the case. Though, there are prima facie materials to justify the registration of the First Information Report and subsequent registration of a case in S.T.C 4907 of 2019, this Court is of the view that its continuance is not warranted. This is because no untoward incident had taken place and the protest was conducted in the peaceful manner and even the First Information Report does not disclose any act of violence or untoward incident, this Court is of the view that the continued prosecution is not warranted. Quashing the same will secure the ends of justice.

8. Accordingly, the impugned proceedings in S.T.C. No. 4907 of 2019, on the file of the learned Judicial Magistrate No.II, Coimbatore, is quashed and the criminal Original Petition is allowed. Consequently connected Crl.M.P.No.19318 of 2019 is closed.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

pbl/vv



To

1. The Judicial Magistrate No.II,
Coimbatore.
2. The Inspector of Police,
Katoor Police Station,
Coimbatore District.
3. The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.35027 of 2019

SMI (CO)
SU(06/01/2022)