



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVA

Crl.O.P. (MD) No.5617 of 2020

and

Crl.MP (MD) Nos.3083 and 3084 of 2020

WEB COPY

01.Manuel @ Amalraj
02.Akarathi
03.Divya
04.Karthick
05.Alagudevi
06.Nizam
07.Jegan
08.Karthick
S/o.Ramanathan Chettiyar
09.Thangapandi
10.Radhamani
11.Prabhakaran
12.Palpandi
13.Dinesh
14.Balamurugan
15.Pandi
16.Manojkumar
17.Silambuselvan
18.Venkateswaran
19.Alagar
20.Saravanan

... Petitioners/A1 to A6,
A7 to A9, A11 to A21

Vs.

1. The State rep. by
Inspector of Police,
Mathichiyam Police Station,
Madurai District.
(Crime No.1931 of 2009)

... R1/Complainant

2.I.M.Jeyaseelan
Village Administrative Officer,
East Madurai & Additional
North Madurai

: R2/De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the proceedings in CC No.545 of 2011 on the file of the Judicial Magistrate No.II, Madurai and quash the same.



For 1,2 & 4 to 20 Petitioners : Mr.A.Jayaramachandran

For 3rd Petitioner

: Mr.I.Robert Chandrakumar

For Respondents

: Mr.S.Manikandan
Government Advocate
(Criminal side)

O R D E R

This petition has been filed seeking quashment of the case in CC No.545 of 2011 pending on the file of the Judicial Magistrate No.II, Madurai.

2.The case of the prosecution in brief:-

One Ramesh was undergoing B.Com., in Madurai Mannar College. On 19/12/2009, he was bitten by a snake and was taken to Madurai Rajaji Government Hospital, but he died on 21/12/2009. In respect of which, a case in Crime No.506 of 2019 under section 174 Cr.P.C was registered and the matter was under investigation. On 22/12/2009 at about 12.30 pm, all the accused persons knowing fully well that the police has imposed restrictions indulged in rioting and caused damage to the public property. The police photographer, who was covering the issue also assaulted. He sustained simple injuries. They also caused injuries to several persons. Based upon the complaint given by the concerned Village Administrative Officer, case in Crime No.1931 of 2009 for the offences under sections 147, 341, 323, 353, 427 and 188 IPC was registered. After completing the formalities of the investigation, totally 21 persons have been charged sheeted under sections 147, 341, 332, 353, 427 and 188 IPC.

3. Seeking quashment of the same, this petition has been filed mainly on the ground that none of the allegations mentioned in the FIR or in the final report attract any of the ingredients of the offences that have been alleged against these petitioners.

4. Heard both sides.

5. It is seen that because of snake bite, one of the college student byname Ramesh expired in spite of proper treatment. Now the students belong to the college have staged protest and also indulged in rioting and caused damage to the public property, also caused injury to the police photographer.

6. We can straightway go to the observation mahazar to know whether or not any damage has been caused to the public property. It has been specifically mentioned that no incriminating evidence was



found in the place of occurrence. No trace was also found in that place. So the observation mahazar clearly shows that no damage was caused to the public property. If really, what is stated in the final report is true, the observation mahazar would have shown the articles, which were alleged to have been damaged by the petitioners. In the absence of any such trace or indication in the place of occurrence, the case of the prosecution that the petitioners caused damage to the public property is without any basis and no materials have been collected during the course of investigation also, except the oral statement of the police party.

7. With regard to the injury also, it is seen that no material has been collected. Now it is not the case of the prosecution that the petitioners have voluntarily caused hurt to the police photographer. Even in the complaint, it has been stated that due to pushing by the accused persons, the police photographer fell down and sustained simple injuries. The Doctor, who examined the police photographer stated that the injured has sustained injuries, measuring 5 x 2 x ½ cm on his right hand palm. That was stated to be simple injury. From that, it is seen that the police photographer namely Thiruppathi sustained injuries and how, the police have been able to identify the accused persons, who caused the injury among several groups of persons is not clear on record and who actually caused the pushing cannot be found out, when there is a mass in that locality.

8. So from the reading of the entire manner of occurrence, it is seen that the petitioners assembled in that area, demanding proper action. So it cannot be construed as 'unlawful assembly' and no damage has been caused to the public property and who caused the injury to the police photographer is also not clear on record and no materials have been collected during the course of investigation also.

9. From the manner of the incident, it is also seen that these petitioners did not intend to cause any damage to the public or the police party. Demanding action, will not amount to illegal act. The assembly cannot be construed as an unlawful assembly. There is no allegation to the effect that the police were prevented from discharging their official duty. Simply because the petitioners defied the Revenue Authority order to disburse that cannot be construed as preventing the public authorities from discharge their official duty. So being the students subjecting them to undergo the process of trial may cause unnecessary trouble to their career and future also. Unintentional act should not be construed as criminal act, causing trouble to the future of the students also.

<https://hcservices.ecourts.gov.in/hcservices/>

10. For the above stated reasons, the final report that has been filed in C.C No.545 of 2011 on the file of the Judicial



Magistrate No.II, Madurai, is liable to be quashed as against these petitioners.

11. Accordingly, this criminal original petition is **allowed**. The the entire proceedings in CC No.545 of 2011 pending on the file of the Judicial Magistrate No.II, Madurai is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2022

Sub Assistant Registrar

sjj/er

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To,

1.The Judicial Magistrate No.II,
Madurai.

2.The Inspector of Police,
Mathichiyam Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.A.JAYARAMACHANDRAN, Advocate
(SR-38186[F] dated 10/12/2021)

Cr1.O.P.(MD)No.5617 of 2020
and

Cr1.MP(MD)Nos.3083 and
3084 of 2020
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