



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 30.04.2021
DELIVERED ON : 21.05.2021

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE **G. ILANGO VAN**

Crl.O.P. (MD)No.6171 of 2021

CRL.M.P. (MD) .No.3542 of 2021

Jayabharathi @ Bharathi ... Petitioner/Accused No.11

Vs.

1.The State rep.by
The Inspector of Police,
Thiruvengadam Police Station,
Tenkasi District. ...1st Respondent/Complainant

2.A.SenthilKumar,
Village Administrative Officer,
Sangupatti Village,
Thiruvengadam,
Tenkasi District. ...2nd Respondent/Defacto Complainant

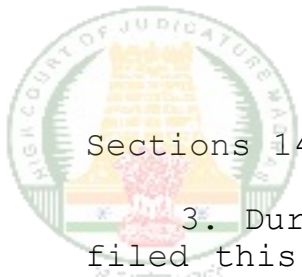
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the First Information Report in Crime No.48 of 2020 on the file of the respondent police and quash the same against the petitioner concerned.

For Petitioner : Mr.J.Vishnu
For Respondents : Mr.R.Srinivasan
Government Advocate(crl.side)

O R D E R

This petition has been filed seeking quashment of the first Information Report in Crime No.48 of 2020, pending on the file of the first respondent herein.

2. The case of the prosecution is that the second respondent lodged a complaint to the first respondent on 21.03.2020, stating that he was working as Village Administrative Officer at Sangupatti Village, Thiruvengadam, Tenkasi District. On information, he went to the place of occurrence, namely, Sangupatti and found some persons of Sangupatti Village, sitting on the road, preventing the movement of the vehicle and public. In spite of advice made by the Village Administrative Officer, they did not disperse. With these allegations, he made a complaint to the first respondent which was registered in Crime No.48 of 2020 for the offence punishable under



Sections 143, 188, 269, 283, 353, 506(1) IPC.

3. During the pendency of the investigation, the petitioner has filed this petition mainly on the ground that they did not indulge any illegal activity during the protest and assembled only for the purpose of arrest of culprits involved in the suicide of one of the villagers, since the Police Officials have not taken any action. They did not commit any offence as mentioned in the First Information Report.

4. It is a case of protest over the inaction of the Police regarding the suicide of a villager in that area. Further, the second respondent has not stated any acceptable reason for unlawful assembly. In the complaint, it is stated that the villagers, who belong to Sangupati Village, had unlawfully assembled and prevented the traffic. Except that, no serious allegation has been made against the petitioner. From the First Information Report, it is seen that it is only a protest made by the villagers. If the offence under Section 145 of IPC is to be attracted, the ingredients of Section 141 of IPC must be met. It is relevant to consider Section 141 IPC, which reads as under:

"Unlawful assembly.—An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is—

(First) — To overawe by criminal force, or show of criminal force, 1[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or

(Second) — To resist the execution of any law, or of any legal process; or (Third) — To commit any mischief or criminal trespass, or other offence; or (Fourth) — By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(Fifth) — By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do. Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly."

5. Reading of the above provision would show that the protest made by the petitioner will not come under the unlawful assembly. In
<https://hcservices.ecourts.gov.in/hcservices/>



the absence of any such hindrance to the public, the offence under Section 143 is not attracted. Regarding 188 IPC, this Court has delivered a judgment in the case of **Jeevanantham and others vs. State rep.by Inspector of Police, Velayuthapalayam Police Station, Karur District and another reported in 2018 2LW(CRL) 606**. In the above judgment, it has been stated that in order to attract the provisions of Section 188 of IPC, the written complaint of the public servant concerned should reflect the ingredients contemplated under Section 188 IPC. In this case, the ingredients contemplated under Section 188 are not met. So, filing the First Information Report under Section 188 IPC is not proper and illegal also. In respect of the offence under Section 269 IPC, the intention of the petitioner is not to spread the disease. But it is only a protest. Similarly, for attracting the offence under Sections 283, 353, 506 (i) IPC, no materials or informations are made available. The second respondent has simply stated in the First Information Report that he was prevented from discharging his official duty and threatened by the accused persons with dire consequences. Therefore, disobey the directions of the second respondent will not amount to prevent him from discharging his official duty. Moreover, the offence of threat is also not mentioned in the First Information Report. Mere bald allegation has been made against the petitioner.

6. Even though this petition has been filed by one of the accused persons mentioned in the First Information Report, the discussion made above would show that none of the offences mentioned in the First Information Report are attracted against anyone of the accused persons. Therefore, the First Information Report pending on the file of the first respondent in Crime No.48 of 2020 is liable to be quashed.

7. Accordingly, the Criminal Original Petition stands allowed and the First Information Report in Crime No.48 of 2020 pending on the file of the first respondent stands quashed. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS III)

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/ /2021

Sub Assistant Registrar(CS)

ssb

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



To

1.The State rep.by
The Inspector of Police,
Thiruvengadam Police Station,
Tenkasi District.

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

Crl.O.P. (MD) No.6171 of 2021
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