



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.08.2021

DELIVERED ON : 24.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.5987 of 2021

CRL.M.P. (MD) .No.3449 of 2021

WEB COPY

1.M.Muneeswaran
2.S.Amhbedhkardurai
3.J.Rajan
4.G.Jeevanesaprabhakaran
5.S.A.Muhamadh Muzzami
6.M.Aravindan
7.E.Liyas Tamilarasan Elumalai ... Petitioners
.Vs.

1.The Inspector of Police,
Avaniyapuram Police Station,
Madurai City.
Crime No.2382 of 2020. ... Respondent/Complainant

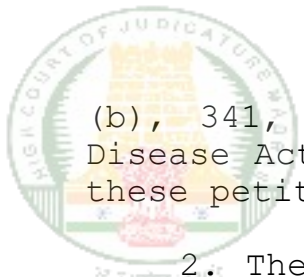
2.Mr.R.Sakkarapani,
Assistant District Engineer,
Tamil Nadu Road Development Institute,
Madurai Ring Road,
Chinathamani,
Madurai Toll Gate,
Madurai City. ... Respondent/Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned First Information Report in Crime No.2382 of 2020 dated 07.11.2020 under Sections 290, 294(b), 341, 143, 353, 506(2) of IPC and Section 76(2) of Epidemic Disease Act, on the file of the first respondent registered against these petitioners/accused Nos.1 to 7 and quash the same as illegal.

For Petitioner : Mr.I.Pinayagash
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
...

O R D E R

This petition has been filed to call for the records pertaining to the impugned First Information Report in Crime No.2382 of 2020 dated 07.11.2020 for the offence punishable under Sections 290, 294



(b), 341, 143, 353, 506(2) of IPC and Section 76(2) of Epidemic Disease Act, on the file of the first respondent registered against these petitioners/accused Nos.1 to 7 and quash the same as illegal.

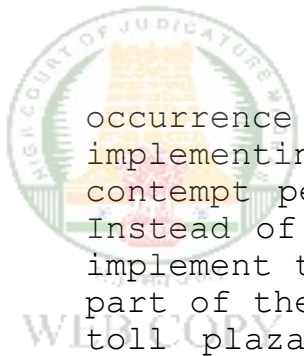
2. The case of the prosecution in brief is that on 07.11.2020, at about 06.20 a.m., the defacto complainant made a complaint to the first respondent herein stating that on 07.11.2020, at Chinathamani Toll Booth, one Sathishkumar was in-charge and in Lane-2, one Premkumar was the Tool Booth operator, at that time, a car bearing Registration No.TN 10 AS 0959 was crossing the toll booth through Lane-2. Hence, the booth operator demanded customs duty for the car. During that time, one Muneeswaran stated that he is a practising advocate in the Madras High Court and refused to pay the toll charges. That was refused by the booth operator. Hence, a trouble arouse between the accused and the booth operator. Around seven persons were available in the car. The parked their vehicle and prevented the other vehicle from proceeding further. They started abusing the operators. When the Police team intervened and directed the petitioners to remove the vehicle, they did not do so. Hence, on the basis of the complaint given by the second respondent, a case in Crime No.2382 of 2020 has been registered under Sections 290, 294 (b), 341, 143, 353, 506(2) r/w 76(2) of Epidemic Disease Act.

3. Seeking quashment of the same, this petition came to be filed mainly on the ground that none of the allegations made in the First Information Report attracts any of the ingredients of the offence made against the petitioners. They only pleaded that the Toll Plazas have to provide basic amenities as ordered by this Court in W.P.(MD).No.11837 of 2017 , but they did not follow the above said judgment. Except that, the petitioners did not indulge themselves in any of the act as mentioned in the First Information Report.

4. The learned Additional Public Prosecutor would submit that the final report is made ready.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

6. From the records, it is seen that the petitioners wanted to teach the basic amenities as ordered by this Court in W.P.(MD). No.11837 of 2017 to the booth officials. If really their intention was to teach the booth officials, they would not have indulged themselves in such unlawful way. There is a specific allegation to the effect that they parked their vehicles in a haphazard manner and prevented the vehicle to pass and criminally intimidated the toll plazas staff, when they demanded the payment of charges. There is no explanation on the part of the petitioner to the effect that they were ready to pay the toll charges and if really they were ready to pay the toll charges, they would have paid the same and no such



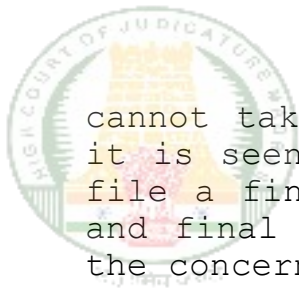
occurrence would have taken place. If really they are interested in implementing the order of this Court, they would have filed a contempt petition against the Toll plazas staff or the Management. Instead of that, they took the law in their own hands and tried to implement the same by engaging themselves. So, the contention on the part of the petitioner that they have only tried to impress upon the toll plaza staff to provide basic amenities as directed in the above said judgment is out of place and cannot be accepted as a ground of defence against the criminal case that has been registered against them.

7. But, however, it is seen that the offence under Section 290, 294(b), 341, 143, 353, 506(2) IPC, Section 76(2) of Epidemic Disease Act has been registered. But, when we can go through the allegation made in the First Information Report, only vague allegation has been levelled with regard to Section 294(b) and 506(ii) IPC. Similarly, in the facts and circumstances of the case, the offence under Section 290 is not attracted. If at all the offence under Sections 341, 143 will alone be attracted, the offence under Section 353 IPC is not attracted. Further, it has been stated in the First Information Report that when the police Officials intervened and asked the petitioners to remove the vehicle, they did not oblige. This will not amount to prevent the public authorities from discharging their official duty. So, this is a vague allegation.

8. For attracting the offence under Section 353 IPC, there must be a real allegation to the effect that this petitioners used criminal force with intention to prevent or deter the public servants from discharging their duty. But, as mentioned earlier, except bald allegation, no other allegations have been made. This position has been clearly stated in the judgment reported in the case of **SEKAR vs. STATE REP.BY THE INSPECTOR OF POLICE STATION, TANJORE DISTRICT** in 2017 (3) MWN (CRL.) 541. So, except the offence under Sections 341 & 343 of IPC, no other offences are attracted and the trial may go on in respect of those offences.

9. The learned counsel for the petitioners would submit that in W.P.(MD).No.25947 of 2019 etc., batch, M/s.Balaji Tollways (Madurai), who is the lessee in respect of Vandiyur, Chinthamanai and Valaynkulam, will not collect any toll fee from 27.02.2020, when a writ petition moved by one Immanuel against the Authorities as well as the Toll Plazas Lessees. He would further submit that they tried to impress upon the Toll Plaza staffs about the order passed by this Court.

10. But, whether a final order has been passed in the above said writ petition or not? is not clear on record. The petitioners have enclosed the interim order which has been passed by this Court and the matter has been adjourned on 23.06.2020 for next hearing. What happened after that is not clear on record. But, this order



cannot take advantage in this petition. Further, from the records, it is seen that the interim order was passed by this Court not to file a final report. However, since the investigation is completed and final report is also made ready, it shall be presented before the concerned Court subject to the above observations.

11. Accordingly, this Criminal Original Petition stands allowed in part as indicated in paragraph No.8 of this order. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

ssb

To

- 1.The Inspector of Police,
Avaniyapuram Police Station,
Madurai City.
- 2.Assistant District Engineer,
Tamil Nadu Road Development Institute,
Madurai Ring Road,
Chinathamani,
Madurai Toll Gate,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.5987 of 2021
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