



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE ON WHICH RESERVED : 16.06.2021

DATE ON WHICH PRONOUNCED : 24.06.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.7846 of 2021

and

Crl.MP(MD)Nos.4015 & 4017 of 2021

1.Beer Mydeen

2.Beer Mydeen

3.Alla Pitchai

4.Beer Mydeen

5.Beer Mohammed

6.Syed Ali

7.Hussain

8.Rajendran ... Petitioners/Accused Nos.1,2,3,7,8,10,11
& 13

Vs.

1.State rep by
The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.
(Crime No.69 of 2017)

... 1st Respondent/Complainant

2.Karuthapandiyan

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for records pertaining to the charge sheet in S.T.C.No.607 of 2017 on the file of the learned Judicial Magistrate No.II, Kovilpatti and quash the same as illegal as so far as the petitioners concerned.

For Petitioners : Mr.V.Thirumal
For Respondent : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor.

ORDER



This Criminal Original Petition is filed to quash the charge sheet in S.T.C.No.607 of 2017 on the file of the learned Judicial Magistrate No.II, Kovilpatti in so far as the petitioners are concerned.

2.The case of the prosecution is that the second respondent has lodged a complaint before the first respondent with the following allegations:-

(i) On 06.03.2017, at about 10.00 a.m, the petitioner and the other accused persons as well as the some other village people belong to the Manamkathan Village, gathered in the place of occurrence namely, the main road at Kayathar to Devarkulam road and demanded to renovate the Manamkathan Village road. They stated that the road is in very damaged condition.

(ii) The further allegation is that during the agitation, the petitioners have prevented the vehicles' movement without hearing the request made by the officials to disburse.

3. Based upon the complaint given by the second respondent herein, a case in Crime No.69 of 2017 for the offences under Sections 143 and 341 IPC was registered. So, the first respondent took up the investigation. After collecting materials, they recorded the statement of witnesses and filed a final report before the learned Judicial Magistrate No.II, Kovilpatti, which was taken on file in S.T.C No.607 of 2017.

4. Challenging the final report, this petition is filed mainly on the ground that none of the allegation mentioned in the First Information Report will attract any of the ingredients of the offence under Section 341 and 143 IPC against the petitioners mainly on the ground of judgment of this Court in **Jeevanandham and others Vs The Inspector of Police, Velayuthampalayam Police Station Karur District, reported in 2018 (2) L.W.(Crl.) 606** and subsequent cases.

5. Heard both sides.

6. It is not disputed by the learned counsel for the petitioners that the petitioners along with the some other village people made a protest on 06.03.2017, at about 10.00 a.m, near Kayathar to Devarkulam main road at Manamkathan bus stop. It is also not in dispute that these petitioners along with the other village people, demanded the repair of main road called 'Manamkathan Village Road'.

7. So, it is seen that the petitioner and the other village people made protest demanding the renovation or repair of the public road. So, it cannot be construed or considered to be illegal or unlawful. So, the grievance of the petitioners are genuine in nature. Moreover, every citizen got right to protest against the demand and when their grievance is public in nature. So, assembly at the place of occurrence cannot be construed as unlawful assembly. Section 141 IPC defines unlawful assembly in the following words:-



" **141.Unlawful assembly** - An assembly of five or more persons is designated and 'unlawful assembly', if the common object of the persons composing that assembly is -

First - To overawe by criminal force, or show of criminal force, (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

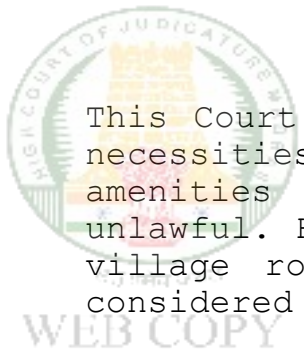
Fifth - By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation - An assembly which was not unlawful when it assembled, may subsequently become and unlawful assembly."

8. So, when we will apply the ingredients of Section 141 IPC to the facts of this case, this Court can easily come to the conclusion that the assembly cannot be termed as unlawful one. There is also no material collected in the course of investigation, to the effect that the ban order under Section 32 of Police Act, was also in force. So, none of the ingredients under Section 143 IPC are attracted.

9. The second allegation is that the petitioners committed offence under Section 341 IPC. For attracting this offence also the ingredients of Section 339 IPC must be fulfilled.

10. The facts and circumstances of the case shows that the petitioners were not intended to assemble in the place of occurrence, for the purpose of obstructing the public transport or movement of the public through that portion, a similar situation in **Crl.OP.No.21965 of 2019, dated 21.08.2019 in M.Nithyanandam Vs. State and Other**, this Court has quashed the final report, which was filed under Sections 143, 341 and 283 IPC. In that case, the village people gathered in the place of occurrence and sat on the public road and staged a road roko agitation demanding supply of water.



This Court by observing that food, water and shelter are the basic necessities for human life. Protesting and demanding for basic amenities through a peaceful agitation cannot be construed as unlawful. Here, the demand made by the petitioners is repairing the village road. As mentioned earlier, it may not be construed or considered as illegal demand.

11. So, I am of the considered view that it is a fit case to quash the proceedings initiated by the first respondent and taken cognizance by the learned Judicial Magistrate No.II, Kovilpatti.

12. In view of the above, proceedings in S.T.C.No.607 of 2017 on the filed of the learned Judicial Magistrate No.II, Kovilpatti, is quashed and the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

dss

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,
Kovilpatti.

2.The Inspector of Police,
Kayathar Police Station,
Thoothukudi District.

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

+1 CC to M/s.V.THIRUMAL, Advocate (SR-20223[F] dated 25/06/2021)

Crl.O.P. (MD)No.7846 of 2021

and

Crl.MP(MD)Nos.4015 & 4017 of 2021

24.06.2021