



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 17.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.12790 of 2021

and

Crl.MP(MD)No.6587 of 2021

WEB COPY

1.K.Sankarpandiayan

2.P.N.Udayakumar

3.S.Rajesh

4.N.Kaveri

... Petitioners/Accused 2,4,6 and 11

Vs.

The State
rep. by Inspector of Police,
Tirunelveli Junction,
Tirunelveli District
(Crime No.941 of 2016)

... Respondent/Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in connection with the impugned charge sheet in STC No.367 of 2017 on the file of the Judicial Magistrate No.IV, Tirunelveli and quash the same in so far as the petitioner is concerned.

For Petitioners : Mr.G.Thalaimutharasu

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate(Crl Side)

O R D E R

This petition is filed seeking quashment of the charge sheet in STC No.367 of 2017 on the file of the Judicial Magistrate No.IV, Tirunelveli in so far as the petitioner is concerned.

2. Heard both sides.

3. The learned counsel for the petitioners submits that the petitioners along with others are the members of the repudiated political party and they were conducting demonstration in a peaceful and democratic manner and they are conducting Dharna without hindrance to the general public. According to the petitioners, the respondent police without proper enquiry, has



registered the case in Crime No.941 of 2016 for the offences punishable under Sections 143 and 186 IPC. After completion of investigation, charge sheet has been filed and the same is taken on file in STC No. 367 of 2017 on the file of the Judicial Magistrate No.IV, Tirunelveli.

4. Section 186 IPC is extracted hereunder:

186. Obstructing public servant in discharge of public functions -Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

5. Pointing out the ingredients of Section 186 IPC, the learned counsel for the petitioners would submit that there is no material to show that the petitioners have obstructed any public servant in discharging of his official duty and therefore, Section 186 IPC will not stand against the petitioner.

6. There is no allegation either in the First Information Report or in the final report that the petitioner indulged in preventing the public authorities from discharging their function. So the offence under Section 186 IPC may not be attracted. If at all only the offence under Section 188 IPC would be attracted. Wrong mentioning of the penal provision need not be given any importance. We can take this offence only under Section 188 IPC. On that ground, we may proceed.

7. So far as Section 143 IPC is concerned, for the purpose of taking cognizance under Section 143 IPC, the ingredients under Section 141 IPC must be brought on record. Section 141 IPC reads as follows:

141. 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, 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.

From the reading of Section 141 IPC, the ingredients of offence are not attracted to the present occurrence. It appears that the petitioners and others conducted Dharna for civil rights of the general public in a peaceful manner protesting against the demonetization. There is no material on record or material collected during the investigation to the effect that the Dharna turned to violence at the end or during the course of it.

8. In view of the above discussion and considering the offences alleged against the petitioners, the charge sheet in S.T.C.No.367 of 2017 on the file of the Judicial Magistrate No.4, Tirunelveli is quashed in so far as the petitioners are concerned.

9. In fine, this petition stands allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM

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 Inspector of Police,
Tirunelveli Junction,
Tirunelveli District

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



Copy to

1.The Judicial Magistrate No.4,
Tirunelveli.

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

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-29549[F] dated
20/09/2021)

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RK/JGB (08/11/2021) 4P 5C