



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 08.10.2021

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGOVAN**

**Crl.OP(MD)No.14750 of 2021**

Thava Ajith

: Petitioner/Accused No.1

Vs.

1. The Sub Inspector of Police,  
Paramakudi Town Police Station,  
Ramanathapuram District.  
(In Crime No.405 of 2019)

: 1st Respondent/Complainant

2. Jenarthanan,  
Village Administrative Officer,  
No.19, Kattuparamakudi Group,  
Paramakudi,  
Ramanathapuram District.

: 2nd Respondent/De-facto  
Complainant

**Prayer:-** Criminal Original Petition is filed under Section 482 of Cr.P.C., to quash the case in Crime No.405 of 2019 on the file of the Sub Inspector of Police, Paramakudi Town Police Station, Ramanathapuram District and quash the same against the petitioner.

For Petitioner

: Mr.T.Balarathinakumar

For Respondents

: Mr.RMS.Sethuraman

Additional Public Prosecutor

### **O R D E R**

This petition is filed seeking quashment of the case in Crime No.405 of 2019 pending on the file of the Sub Inspector of Police, Paramakudi Town Police Station, Ramanathapuram District, as against the petitioner/A1.

2.The short facts of the case is that based on the complaint given by the Village Administrative Officer of Kattuparamakudi Group, Paramakudi, on the allegation that when section 144 of Cr.P.C and section 32 of the Police Act was imposed by the District Collector, Ramanathapuram, in connection with celebration of Devar Jeyanthi and Maruthupandiyar Guru Poojai festival, the petitioner along with 5 others without any permission from the police officials, conducted a bus stir on 29.10.2019 at about 5.30 pm, at Paramakudi five point junction road. In this connection, a case in Crime No.405 of 2019 has been registered by the 1<sup>st</sup> respondent police for the offence under sections 143 and 188 of IPC. Seeking quashment of the FIR in respect of Crime No.405 of 2019 filed against him, the petitioner has filed this petition.



3. Heard both sides.

4. Perusal of the records shows that none of the ingredients attracts as against this petitioner, as mentioned in 143 IPC. Section 141 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

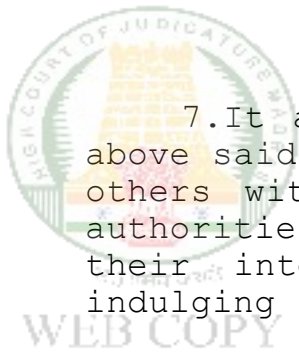
**Fourth** - By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any 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 commit 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. The only allegation made against this petitioner is that he made a protest, demanding action against the persons, who were involved in the defamation of Immanuel Sekaran. No violence took place.

6. A reading of the above provision in conjunction with the genuineness of the allegations made against this petitioner shows that none of the ingredients are attracted to the occurrence. So what happened is only a peaceful protest, demonstration and agitation over the defamatory allegation that has been made against one Immanuel Sekaran.



7.It also appears that no violence took place because of the above said demonstration or agitation. No doubt, the petitioner and others without getting any proper permission from the concerned authorities staged the protest. Since no violence took place and their intention was not to make any illegal activities and indulging in violation, it cannot be construed as unlawful assembly.

8.So far as the offence under section 188 IPC is concerned, it is nothing, but a non cognizable offence and the police has no right to investigate the matter, which is settled in **Jeevanandham's case**. Even though, it is clubbed along with 147 IPC, since 143 IPC is not made out, consequently, section 188 IPC is also not applicable. So continuation of the proceedings against the petitioner will amount to abuse of process of law and court.

9.In view of the above, this criminal original petition stands **allowed**. The entire proceedings in Crime No.405 of 2019, pending on the file of the 1<sup>st</sup> respondent is hereby quashed in respect of the petitioner herein alone.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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**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 Sub-Inspector of Police,  
Paramakudi Town Police Station,  
Ramanathapuram District.
2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.

**CrI.OP(MD)No.14750 of 2021**  
**08.10.2021**