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CRL.O.P.(MD)NO.15309 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2021

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Cr1.O.P.(MD)No.15309 of 2021 and
CRL.M.P.(MD)Nos.8215 & 8216 of 2021

S.Dinesh Kumar

... Petitioner / Accused No.16

Vs.

1. The Inspector of Police,
Thallakulam police station,
Madurai City,
Madurai.

(Crime No.689 of 2016) ... Respondent No.1 / Complainant

2. T.Latha,
Special Tahsildar,
No.191, North Constituent Assembly,
Flying Squad,
Madurai City, Madurai.

... Respondent No.2 /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the final report in C.C.No.238 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai, in Crime No.689 of 2016 dated 11.04.2016 on the file of the first respondent and quash the same as illegal as against the petitioner alone.

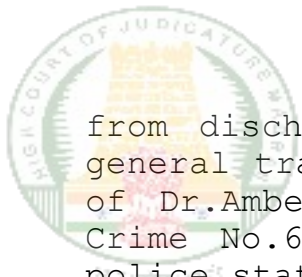
For Petitioner : Mr.T.Lajapathi Roy
For R-1 : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed for quashing the proceedings in C.C.No.238 of 2019 on the file of the Judicial Magistrate No.II, Madurai.

3. The case of the prosecution is that on 11.04.2016 the accused assembled in front of the Law College and wanted to celebrate the birthday of Dr.Ambedkar in advance. Dr.Ambedkar's birthday falls on 14th April. Since during the relevant time Model Code of Conduct was in force, the defacto complainant is said to have been denied permission. Aggrieved by the same, the accused are said to have raised slogans and also prevented the public servants



from discharging their duties and also caused obstruction to the general traffic. It is also stated that the accused broke the photo of Dr.Ambedkar and caused damage to the tune of Rs.150/-. Hence Crime No.689 of 2016 was registered on the file of Thallakulam police station for the offences under Sections 143, 188, 341 and 353 of I.P.C. and Section 7 (1) (a) of Criminal Law Amendment Act. Investigation was conducted and final report was filed and cognizance of the aforesaid offences was also taken. The case was taken on file in C.C.No.238 of 2019. To quash the same, this criminal original petition has been filed.

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the memorandum of grounds and called upon this Court to quash the impugned proceedings.

5. Per contra the learned Additional Public Prosecutor submitted that a case for quashing the impugned proceedings has not been made out.

6. I carefully considered the rival contentions and went through the materials on record.

7. It has been held that a First Information Report cannot be registered for the offence under Section 188 of I.P.C. by the police officer. The assembling of the law students in front of the Law College cannot constitute unlawful assembly. Since the accused wanted to celebrate the birthday of Dr.Ambedkar in advance and since the permission was denied, they appeared to have got agitated. This behaviour on the part of the students can be expected and it need not have been given a criminal colour. The stand of the prosecution that the accused threw the photo of Dr.Ambedkar and caused damage to it is inherently improbable. The very object of the assembly was to celebrate the birthday of Dr.Ambedkar. It is inherently improbable that they could have conducted themselves in a manner so as to sully the hallowed memory of Dr.Ambedkar. Continuance of the impugned prosecution is not warranted. Therefore, the impugned proceedings are quashed.

8. This criminal original petition is allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petitions are closed.

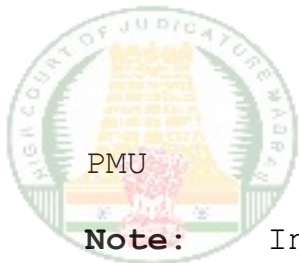
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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,
Madurai.
2. The Inspector of Police,
Thallakulam police station,
Madurai City, Madurai.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-37882[F] dated 09/12/2021)

Cr1.O.P.(MD)No.15309 of 2021
08.12.2021

SAK(CO)
KB(21.12.2021) 3P 5C