



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl O.P.(MD)No.18391 of 2021

and

Crl M.P.(MD)No.10110 of 2021

WEB COPY

- 1.Mayandi
- 2.Mahesh
- 3.Ananth @ Ananthakumar
- 4.Esakkipandi
- 5.Mageshkumar

... Petitioners/Accused No.1 to 5

Vs.

1. The State represented by
The Inspector of Police,
Thiruchendur Temple Police Station,
Thoothukudi District.
(Crime No.167 of 2020)

... 1st Respondent/Complainant

2. Ravi Kumar,
Sub Inspector of Police,
Thiruchendur Temple Police Station,
Thoothukudi District.

... 2nd Respondents/Defacto
Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C, to call for the records pertaining to Crime No.167 of 2020 dated 20.05.2020 on the file of the Inspector of Police, Tiruchendur Temple Police Station, Thoothukudi District and quash the same.

For Petitioners : Mr.D.S.Haroon Rasheed

For Respondents : Mr.T.Senthil Kumar

Additional Public Prosecutor for R1

ORDER

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the first respondent.

2.The petitioners are figuring as accused in Crime No.167 of 2020 registered on the file of the first respondent for the offences under Sections 143, 188, 269, 291 of IPC and Section 4(1) (j) of the Tamil Nadu Prohibition Act. As per the FIR, the petitioners formed a group and were found in a drunken condition



and they were creating public nuisance. Even though the patrol party directed them to disperse, the accused continued to stay put and spoke in filthy language. They were also conducting themselves in a manner so as to spread Covid-19 disease. Hence, the FIR was registered on 20.05.2020 for the aforesaid offences.

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3.The registration of the case for the offence under Section 188 of IPC is clearly not maintainable. The case on hand is squarely covered by the decision of this Court in **Jeevanandham and others Vs. State** reported in **2018 (2) LW Cr1.606**.

4.Section 291 of IPC could have been invoked only if there was a breach of an order made under Section 143 Cr.P.C. Invoking Section 291 IPC was also not maintainable in view of the order dated 09.11.2021 made in Crl.O.P.(MD)No.16135 of 2021. It has not been shown that the petitioners actually contributed to the spread of the disease. The accused has not indulged in any act of violence. As a result of the petitioners conduct, no adverse consequence ensued. Section 269 of IPC is also not made out.

5.It is seen that the petitioners were arrested and that the certificate of drunken indicated that the petitioners were under the influence of alcohol. Section 4(1)(j) of the Tamil Nadu Prohibition Act criminalises consumption of any liquor other than such liquor as may be specified by the State Government, by notification, in that behalf. In this case, the certificate of drunken indicated that the petitioners had consumed liquor. There is nothing on record to show that what was consumed by the petitioner was something illicit. Therefore, the offence under Section 4(1)(j) is not at all made out. Looked at from any angle, the impugned FIR registered against the petitioner is illegal and it stands quashed. This Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

mga

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.

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



To

1. The Inspector of Police,
Thiruchendur Temple Police Station,
Thoothukudi District.
2. Sub Inspector of Police,
Thiruchendur Temple Police Station,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl O.P. (MD) No.18391 of 2021
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