



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2021

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)No.18801 of 2021 and

CRL.M.P.(MD)Nos.10423 & 10425 of 2021

WEB COPY

1. S.Lakshmanan
 2. Sundaram
 3. Sivakumar
- ... Petitioners / Accused 1 to 3
Vs.
1. The Inspector of Police,
Musiri police station,
Trichy District.
(Crime No.1556 of 2020)
- ... Respondent / Respondent
2. Rajivgandhi,
Sub Inspector of Police,
Musiri police station,
Trichy District.
- ... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the charge sheet in C.C.No.121 of 2021 on the file of the learned Judicial Magistrate, Musiri and quash the same as against the petitioners are concerned.

For Petitioner : Mr.M.Subash Babu
For Respondents : Mr.T.Senthil Kumar,
Additional Public Prosecutor.

O R D E R

Heard the learned counsel on either side.

2. This criminal original petition has been filed to quash the proceedings in C.C.No.121 of 2021 on the file of the Judicial Magistrate, Musiri.

3. The petitioners are facing trial for the offences under Sections 147 and 148 of I.P.C. and Sections 5 and 27(1) of the Arms Act, 1959 and Section 67 of the Information Technology Act 2000.

4. The case of the prosecution is that on 03.09.2019 at about mid night while celebrating the birthday of the first petitioner, the accused cut the cake by using what is known as Patta Kathi. Photographs were taken and this was also shared in the social



media such as facebook and whatsapp. That led to registration of Crime No.1556 of 2020 on the file of the first respondent. Final report was filed and cognizance of the aforesaid offences was taken.

5. The learned counsel appearing for the petitioners reiterated all the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings. He also gave an undertaking on behalf of the petitioners that the petitioners would refrain from indulging in such conduct in future.

6. The learned Additional Public Prosecutor appearing for the first respondent submitted that no case has been made out for quashing the impugned proceedings.

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

8. The petitioners have assembled in the house of the first petitioner for celebrating the first petitioner's birthday. Such an assembly of persons in one's house cannot by no stretch of imagination constitute an unlawful assembly. The object of the group was to celebrate the first petitioner's birthday. It cannot be called as an unlawful object. A cake was indeed cut. The petitioners state that what was used for cutting the cake was only a toy knife. The birthday was celebrated on 03.09.2019. The case was registered a full one year later, when the whatsapp photographs surfaced.

9. It is not the case of the prosecution that the petitioners indulged in any violent conduct. No adverse consequence ensued. The petitioners are youngsters and their career will be affected, if the impugned prosecution is allowed to continue. Even if I assume that all the averments set out by the prosecution are true, still no case has been made out. Therefore, the impugned proceedings are quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (Records)

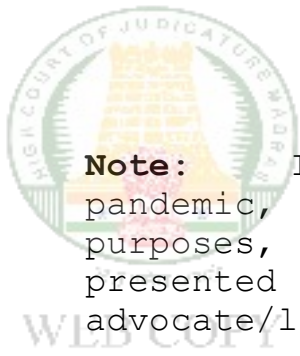
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/ /2021

Sub Assistant Registrar(CS)

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To:

1.The Judicial Magistrate, Musiri.

2.The Inspector of Police,
Musiri police station,
Trichy District.

Coy to

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

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-37086[F] dated 02/12/2021)

Cr1.O.P.(MD)No.18801 of 2021
30.11.2021

RK(17/12/2021) 3P 5C