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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.1244 OF 2022 AND
CRL.MP.NOS.492 &494 OF 2022

1. Nirmal kumar
2. Kumar
3. Nithish
4. Sivakumar
5. Pandi
6. Sathiskumar
7. Arjun
8. Gopi
9. Selvaparthiban
10. Robinson
11. Sharma
12. Pradeep
13. Rajesh
14. Krishna
15. Kishore,
16. Ramkumar
17. Dinesh Kumar

... Petitioners/Accused Nos.2-18

Vs.

The State Represented by
Inspector of Police,
G.1, Vepery Police Station,
Chennai-600 007
(Cr.No.238/18)

... Respondent/
Complainant

PRAYER:

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the CC.No.1493 of 2019, on the file of the Chief Metropolitan Magistrate Court No.II, Egmore, Chennai and to quash the same.

For Petitioners	: Mr.R.Thamarai Selvan
For Respondent	: Mr.E.Raj Thilak
	Additional Public Prosecutor



O R D E R

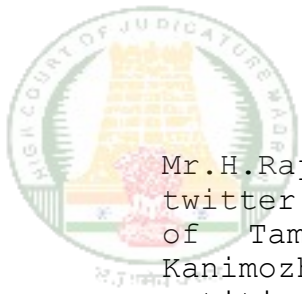
This petition has been filed to quash the proceedings in CC.No.1493 of 2019 on the file of the Chief Metropolitan Magistrate-II, Egmore, Chennai.

2.The learned counsel for the petitioners would submit that no offence is made out as against the petitioners for the offence under Sections 143, 290 r/w 149 of IPC and 7(1)(a) of CLA Act. The entire charges do not constitute any offence as alleged by the prosecution as against the petitioners. He further submitted that the prosecution failed to examine any one of the independent witness to substantiate the charges leveled as against the petitioners herein. The occurrence allegedly took place at a busy road, namely EVK Sampath Road, Vepery, Chennai. Even then, the respondent failed to examine any one of the independent witnesses to prove the charges. He further submitted that even assuming that the occurrence was took place, it is amount to freedom of speech guaranteed under the constitution of India and the same cannot be curtailed by the respondent by registering the false case as against the petitioners. Therefore, the entire proceedings are vitiated and prayed for quashment of the entire proceedings.

3.Per contra, the learned Additional Public Prosecutor submitted that there are totally 18 accused, in which the petitioners are arrayed as accused Nos.2 to 18. On 19.04.2018, at about 3.00 p.m., the petitioners along with other accused, unlawfully assembled in the public place and raised slogan against Mr.H.Raja, who is a politician, demanding his arrest for the twitter statement made against Dr.Kalaingar Karunanidhi and his daughter Kanimozhi about the abusive words. They conducted this dharna in the public place without getting any permission. Therefore, the petitioners and other accused person have committed the offence punishable under Sections 143, 290 r/w 149 of IPC and 7(1)(a) of CLA Act. He further submitted that there is a specific allegation as against the petitioners and others to prove and also materials to substantiate the charges leveled as against the petitioners and others. Therefore, he prayed for dismissal of the quash petition.

4.Heard Mr.R.Thamarai Selvan, the learned counsel for the petitioners and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent.

5.There are totally 18 accused, in which the petitioners are arrayed as accused Nos. 2 to 18. According to the case of the prosecution on 19.04.2018, at about 3.00 p.m., the petitioners and others who are studying in a law college, without obtaining any permission unlawfully assembled and raised slogan against



Mr.H.Raja, one of the politician, demanding his arrest for the twitter statement made by him against the former Chief Minister of Tamil Nadu, Dr.Moo.Karunanidhi(late) and his daughter Kanimozhi about the abusive words. On perusal of charge, the petitioners and others gathered on 19.04.2018 at about 15 hours at EVK Sampath Road, near Agarwal High School, Vepery, Chennai and raised slogan to arrest Mr.H.Raja. They did not use any abusive words as against the police officials or as against the said H.Raja. They raised slogan only to arrest him for the twitter posted by him against the former Chief Minister of Tamilnadu and his daughter. It is relevant to extract the provisions under Section 290 of IPC as follows:

290. Punishment for public nuisance in cases not otherwise provided for.—Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred rupees.

6.Admittedly, the petitioners and others did not commit any nuisance to the public. They simply gathered together and raised slogan to arrest Mr.H.Raja. It is also seen from the statement recorded under Section 161(3) of Cr.P.C., no public were examined by the respondent to substantiate the charges leveled as against the petitioners. It shows that there is no nuisance caused by the petitioners to the general public. Further no independent witness is also examined by the respondent to prove the charges as against the petitioners. Further, the slogan raised by the petitioners is nothing but freedom of speech guaranteed under the Constitution of India. Therefore, no offence is made out as against the petitioners as alleged by the prosecution and the entire proceedings are nothing but clear abuse of process of court.

7.In view of the above, this criminal original petition is allowed and the entire proceedings in CC.No.1493 of 2019, on the file of the Chief Metropolitan Magistrate Court No.II, Egmore, Chennai is quashed as against all the petitioners. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sli



To

1. The learned Chief Metropolitan Magistrate Court No.II,
Egmore, Chennai.

WEB COPY

2. The Inspector of Police,
G.1, Vepery Police Station,
Chennai-600 007.

3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.R.Thamarai Selvan, Advocate, S.R.No.5718

CRL.O.P.No.1244 of 2022

SRA (CO)
PM/14/02/2022