



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2022

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.2558 OF 2022

&

CRL.M.P.NOS.1177 & 1180 OF 2022

CVMP EZHILARASAN MLA,
S/o. CVMA Ponmothi.

... Petitioner/Accused No.1

Vs.

1. The State Rep. by,
The Inspector of Police,
F1 Chintadripet Police Station,
Triplicane, Chennai - 600 002.

2. Gajendran
The Special Sub-Inspector of Police,
F1 Chintadripet Police Station,
Triplicane, Chennai - 600 002.

... Respondents/Complainant/
Defacto Complainant

PRAYER:-

Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for records in C.C.No.41 of 2021 on the file of the Additional Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu Singaravelar Maaligai, Chennai.

For Petitioner : Mr.S.Manuraj

For Respondents : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for records in C.C.No.41 of 2021 on the file of the Additional Special Court for Trial of Criminal Cases related to Elected Members of Parliament and Members of Legislative Assembly of Tamil Nadu Singaravelar Maaligai, Chennai.



2. The allegations is that on 08.01.2020, while the de-facto complainant was in usual rounds, the accused had formed into unlawful assembly near Periyar Statute in Anna Salai at about 12 noon and had raised slogans against the amendment of CAA (Citizenship Amendment Act, 2019 and NRC) and also against the attack on the students of Jawaharlal Nehru University, Delhi, when the respondent police have warned them stating that they have indulged in illegal demonstration in defiance of the promulgatory orders some of them have dispersed and others have obstructed the free flow of traffic.

3. Based on the complaint given by the de-facto complaint, the 1st respondent has registered a case in Crime No.10 of 2020 on 08.10.2020 for the offences under Sections 143 and 341 of IPC, 1860 and Section 41 of the Tamil Nadu City Police Act, 1888.

4. The learned counsel appearing for the petitioner submits that the petitioner and other accused are citizens of this Country and the Constitution of this Country guarantees its citizens the freedom of speech and expression, assemble peacefully and without arms and to form Associations and to move freely throughout the Territory of India. The petitioners have peacefully assembled and demonstrated without causing any disturbance and they have not involved in any act of violence and even as per the version of the prosecution no untoward incident had happened. He further submitted that this Court in similar matters where demonstrations were made against the policies of the Government had in CrI.OP(MD).No.12438 of 2020 dated 05.11.2020 and CrI.OP(MD).No.4609 of 2021 dated 25.03.2021, had quashed the proceedings thereunder. The learned counsel for the petitioner further submitted that this Court in those cases found that no offences were made out against the accused therein and had quashed the entire proceedings in respect of all the accused. The learned counsel for the petitioner also relied on the relevant portion of the order of this Court in :

(i) CrI.O.P(MD) No.12438 of 2020 dated 05.11.2020, which reads as follows:-

"5.Though, there are prima facie materials to justify the registration of the First Information Report, I am of the view that its continuance is not warranted. This is because no untoward incident had taken place. The country had witnessed protests all over by different sections of people against the said amendments. Since the protest was peaceful and even the First Information Report does not disclose



any act of violence or happening of untoward incident, I am of the view that the continued prosecution is not warranted. Quashing the same will secure the ends of justice."

WEB COPY

(ii) In Crl.O.P.No.4609 of 2021 dated 25.03.2021, which reads as follows:

"4.It is to be pointed out that no untoward incident had taken place. The petitioner has organized the protest and the First Information Report has not disclosed any act of violence. It must be unequivocally emphasized that the Constitution of India gives its Citizens the right to freedom of speech and expression, assemble peacefully and without arms, to form Association and Unions and to move freely throughout the Territory of India under Article 19(1) (a), (b), © and (d) of the Constitution of India. But the course these rights come with terms and conditions. In the instant case, the protest was peaceful and as already observed no untoward incident took place."

5. The learned Additional Public Prosecutor appearing for the respondents submitted that the petitioner and the other accused by their acts committed public nuisance and interfered with free movement of public and flow of traffic and on the warning given by the de-facto complainant, they have dispersed and some of them were arrested and taken to the Police Station and later let out on bail.

6. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the respondents and perused the entire materials available on record.

7. In this instant case, the protest was peaceful and as already observed no untoward incident had taken place.

8.In view of the above, this Court is of the considered view that, continuation of the proceedings as against the petitioner and other accused, is not sustainable and quashing the same will secure the ends of Justice. The proceedings in C.C.No.41 of 2021, on the file of the Additional Special Court for Trial of Criminal Cases related to Elected Members of Parliament and



Members of Legislative Assembly of Tamil Nadu Singaravelar Maaligai, Chennai, are quashed as against all the accused. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are also closed.

WEB COPY

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vkr/nst

To

1. The Judge,
The Additional Special Court for Trial
of Criminal Cases related to Elected
Members of Parliament and Members of
Legislative Assembly of Tamil Nadu
Singaravelar Maaligai,
Chennai.
2. The Inspector of Police,
F1 Chintadripet Police Station
Triplicane, Chennai - 600 002.
3. The Public Prosecutor,
Madras High Court,
Madras.

CRL.O.P.NO.2558 OF 2022 &
CRL.M.P.NOS.1177 & 1180 OF 2022

KV(CO)
PBS/15/03/2022