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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.1953 of 2022

&

CRL. M.P. Nos.846 & 848 of 2022

- 1.T.Velmurugan
- 2.Sathriyan T V Venugopal
- 3.Sarathbabu
- 4.Veeraragavan
- 5.Veeran
- 6.Muthuraj
- 7.Deva
- 8.Arunkumar
- 9.Suresh
- 10.Sai Surya
- 11.Vibinkumar
- 12.Periyasamy
- 13.Vengada Kotrava Murthy
- 14.Vijay
- 15.Naveen Kumar
- 16.Dhinesh Kumar
- 17.Dhinagar

... Petitioners/A-1 to 17

Versus

1. State rep by its,
The Inspector of Police,
Thousand Lights Police Station,
Triplicane District, Chennai.
(Crime No.98 of 2018)

... Respondent/Respondent

2. Rajasekaran

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records and quash the charge sheet filed in C.C. No.42 of 2021 pending on the file of the Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Singaravelar Maaligai, Chennai in so far as the petitioners are concern.

For Petitioners : Mr.K.Gandhi Kumar



For Respondents : Mr.E.Raj Thilak for R1
Additional Public Prosecutor

O R D E R

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This petition has been filed to call for the records and quash the charge sheet filed in C.C. No.42 of 2021 pending on the file of the Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Singaravelar Maaligai, Chennai in so far as the petitioners are concerned.

2. The petitioners and others, who belong to "Thamizhaga Valvurimai Katchi" had held protest without any permission against the Indian Oil Corporation for laying road for transportation of oil in the fields and demanding "Kaveri Management Board" as per the Hon'ble Supreme Court's order. They were warned to go away from that place, but they did not obey the same. Hence, they were arrested and a case was registered in Crime No.98 of 2018. After investigation, the respondent Police filed a final report for the offence under Sections 143, 353 and 149 of IPC and Section 7(1)(a) of the Criminal Law Amendment Act 2005. The case is now pending before the Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Singaravelar Maaligai, Chennai in C.C.No.42 of 2021.

3. The learned counsel appearing for the petitioners submitted that the Hon'ble Supreme Court of India has held that the right to freely assemble and also right to freely express one's view or constitutionally protected rights under Part III and their enjoyment can be only in proportional manner through a fair and non-arbitrary procedure provided in Article 19 of Constitution of India. He further submitted that it is the duty of the Government to protect the rights of freedom of speech and assemble that is so essential to a democracy. Further he submitted that the petitioners or any other members had never involved in any unlawful assembly and there is no evidence that the petitioners or others restrained anybody. However, the officials of the respondent police had beaten the petitioners and others. When there was lot of members involved in the protest, the respondent police had registered this case, as against the petitioners and others. Therefore, he sought for quashing the proceeding.

4. Per contra, the learned Additional Public Prosecutor submitted that the petitioners along with others assembled in large numbers and there are specific allegations as against the petitioners to proceed with the trial. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.



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

6. On perusal of the charge, it is seen that the petitioners along with other accused without getting prior permission from the concerned authority assembled and blocked the road. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charges against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial. Therefore, the charge sheet cannot be sustained and it is liable to be quashed.

7. Accordingly, the proceedings in C.C.No.42 of 2021 pending on the file of Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Singaravelar Maaligai, Chennai, is quashed as against the petitioners and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dna
To

1. The Additional Special Court for Trial of Cases related to Members of Parliament and Members of Legislative Assembly of Tamil Nadu, Singaravelar Maaligai, Chennai.
2. The Inspector of Police, Thousand Lights Police Station, Triplicane District, Chennai.
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.K.Gandhi Kumar, Advocate, S.R.No.5735

CRL.O.P.No.1953 of 2022 &
CRL. M.P. Nos.846 & 848 of 2022

PMK(CO)
CT 24/02/2021