



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.2.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.3163 of 2022
and Crl.M.P.Nos. 1419 & 1422 of 2022

1. Ashraf
2. Mustafa
3. Rahamathullah
4. Madhu Jamaal @ Badhur Jaman
5. Hassali Meeran @ Kassali Meeran
6. Akbar Ali @ Mohamed Akbar Ali
7. Mohamed Imran
8. Mohamed Thaslim
9. Mohamed

...Petitioners

Vs.

State Represented by,
The Inspector of Police,
J-4, Kotturpuram Police Station,
Chennai.
(Crime No. 445 of 2019)

...Respondent

PRAYER: This Criminal Original Petition is filed under Section 482 of Criminal Procedure Code pleaded to call for the records in C.C.No.2962/2020 pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai and quash the same.

For Petitioners : Mr.I.Abdul Basith

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

O R D E R

The Criminal Original Petition has been filed to quash the proceedings in C.C.No.2962 of 2020 pending on the file of the IX Metropolitan Magistrate Court, Saidapet, Chennai.

2. Brief facts of the case are under:-

(a) Seeking justice for the suicide committed by a first year girl student by hanging herself in a ceiling fan in her hostel room in the campus of Indian Institute of Technology (IIT) Madras and insisting for arrest of Faculty Members alleged to be responsible for the suicide, the petitioners, belonging to an organization called "Campus Friends of India" had attempted to surrounded the IIT campus on 9.11.2019 and when the respondent Police, on his routine



rounds, had advised them to disperse without forming any illegal assembly, the petitioners alongwith their associates had continued their protest by raising slogans against the management of IIT and prevented the free flow of movement and thereby, the respondent had initiated a suo motu proceedings against the petitioners and registered FIR in Crime No.445 of 2019 for the offence under section 143, 145 and 341 of IPC on 12.12.2019. Subsequently, on completion of investigation, the respondent had filed the final report before the learned IX Metropolitan Magistrate Court, Saidapet, Chennai and the case was taken up in C.C.No.2962 of 2020.

3. The submissions of the learned counsel appearing for the petitioners are as under:-

(i) The petitioners are law abiding persons and they had gathered only to ventilate their grievance and they had not made any disturbance to the public, however, have been roped into the present case falsely.

(ii) The petitioners are social activists, who have been raising voice for public cause and public welfare whenever any injustice occurred. It is the duty of the Government to protect right of freedom of speech and assemble which is essential in democracy. The petitioners had not involved in any crime in the assemble and there is no material to show that the petitioners restrained anybody and nothing on record to show that on the date of occurrence, any prohibitory order was there in force.

(iii) The FIR and charge sheet do not reveal any specific role of these petitioners and they do not attract any offences under Sections 143, 145 and 341 IPC and therefore, the FIR is not only an illegal one but also against the fundamental rights guaranteed under Articles 14, 19, 20(1) and 21 of Constitution of India and the proceedings against the petitioners based on the impugned charge sheet is nothing but, an abuse of process of law.

(iv) The de facto complainant and the investigating officer being one and the same, is against the concept of fair investigation and fundamental principle of criminal law.

(v) The case filed against the petitioners is with an intention to prohibit the fundamental right of freedom to assemble peacefully and without arms and therefore, it is in violation of the fundamental rights guaranteed under Articles 14, 19(1)(a) 19(1)(b) and 21 of the Constitution of India.

(vi) Except the witnesses to rough sketch and observation mahazar, who are also the stock witnesses of the respondent police, no independent witness has been brought by the prosecution though they had cited eight witnesses and that no individual from common public has come to lodge a complaint before the respondent police as against the petitioners.

(vii) Even as per the FIR, it is stated that the petitioners made protest by raising slogans against the Management of Indian Institute of Technology (IIT) Madras and later, they dispersed themselves and no untoward incident had



4. The learned counsel for the petitioner would submit that in a similar circumstance, this court in CrI.O.P.(MD) No.11785 of 2021 dated 21.09.2021, taking into consideration the right of citizens to protest, had quashed the proceedings.

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5. Learned Additional Public Prosecutor would submit that one of the accused/A84 in this case has pleaded guilty and the name of A2 is found in the FIR, however, he would fairly submit that no investigation has been done with regard to the identity of the other accused.

6. Heard the learned counsel appearing for the parties and perused the materials available on record.

7. Admittedly, a pathetic incident had occurred inside the campus of an educational institution. A First Year girl student had committed suicide by hanging herself in a ceiling fan in her hostel room leaving a suicide note implicating certain names of the Faculty. The petitioners, belonging to a social activist group called Campus Friends of India, had demonstrated a protest in front of the Institution seeking justice for the victim by arrest of the Faculty. In the final report, it has been mentioned that Members of the above organization numbering about 100 persons made a protest without getting prior permission from the authority and they had also raised slogans against the Management of the Institution.

8. Though, the Members of the said organisation had assembled and protested against the Management of Indian Institute of Technology and thereby prevented the free flow of general public and traffic, no person from the general public had given any complaint and that the protest and demonstration was made only in respect of suspicious death of a girl in hostel room.

9. Having perused the materials available on record, this court finds that in the FIR, four named and 96 unknown persons have been mentioned and it is also stated that as a preventive step, the petitioners were arrested and they were taken to the Kotturpuram Police Station and as revealed by the final report, they had been let out in station bail, however, at the time of filing final report, the respondent had implicated the petitioners. A perusal of the FIR, shows that the petitioners had protested seeking arrest of the Faculty, who are alleged to be responsible for the death of the victim girl and as a preventive measure, the petitioners were arrested by the respondent. However, the statement of witnesses recorded under Section 161 Cr.P.C shows that there is no proper investigation with regard to identity of the persons. Other than the two persons, who were office bearers of the said organisation, no investigation has been done with regard to identity of other accused.



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10. In a similar circumstances, this court has held in Crl.O.P.No.4609 of 2021 dated 25.3.2021 as under:-

"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 Associations and Unions and to move freely throughout the Territory of India under Article 19 (1) (a), (b), (c) and (d) of the Constitution of India. But of 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."

11. In the case of Ananthasamy @ Anandasamy, Sneka @ Snega Vs. The State in Crl.O.P.(MD).No.11785 of 2021, dated 21.09.2021, the Madurai Bench of Hon'ble Madras High Court has held as follows :-

'8. It is a common knowledge that against the Amendment of CAA (Citizenship Amendment Act), several protests, demonstrations and agitations took throughout of India and in abroad also. So, right to protest is well recognised. So, the only qualification is that it should not end in any violation.

9. A reading of the First Information Report shows that they made a protest by shouting slogans against the amendment Act and the Government. But, later, they dispersed themselves. So, it is seen that no untoward or criminal act was occurred. No doubt, conduct protest, without getting any proper permission, is not proper. They also created nuisance in that place. But, entire reading of 161 statement, recording during the course of investigation, shows that the identification of person, who are involved in the occurrence, was not properly investigated. None of the statement recording during the course of investigation, did not speak about the identification of the person, who involved in the demonstration or protest. Then, how the petitioners roped in the above said offence, is not understandable.

10. Moreover, this Court, passed the order in Crl.OP(MD)No.10774 of 2020, dated 05.10.2020, dealing with a similar situation for quash the First Information Report in Crime No.54 of 2020, which was also registered, on the basis of the protest, made by the political



To

1.The IX Metropolitan Magistrate Court,
Saidapet, Chennai.

2.The Inspector of Police,
J-4, Kotturpuram Police Station,
Chennai.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.I.Abdul Basith, Advocate SR. No.9641

CrI.O.P.No.3163 of 2022 and
CrI.M.P.Nos.1419 & 1422 of 2022

AD (CO)
PR (17/03/2022)