



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5641 of 2022
and Crl.M.P.No.3120 of 2022

1.Sarjeeth
2.Balasubramaniyan
3.Gajendren
4.Shobana
5.Kuselan
6.Raja

... Petitioners/A1 to A6

Vs

1.The State rep by
The Inspector of Police,
C2 Race Course Police Station,
Law and Order,
Coimbatore. (Crime No.138 of 2021)

2.Boopathi.G
The Special Sub Inspector of Police,
C2 Race Course Police Station,
Law and Order,
Coimbatore.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pertaining to STC.No.5444 of 2021 on the file of the learned Judicial Magistrate III, Coimbatore and quash the same.

For Petitioner : Dr.S.Manoharan

For Respondents: Mr.A.Gokulakrishnan
Additional Public Prosecutor for R1
No appearance for R2

O R D E R

This Criminal Original Petition has been filed seeking to call for the records pertaining to STC.No.5444 of 2021 on the



file of the learned Judicial Magistrate III, Coimbatore and quash the same.

2.The case of the petitioners is that on 19.02.2021 at about 11.50 hours, the accused without following Covid protocol and regulations, protested in a unlawful manner against the new formulas brought in by the Central Government.

3.Based on the complaint of the respondent, a case in Crime No.138 of 2021 was registered for offences under Sections 143 and 269 IPC. The respondents, after completion of the investigation, filed a final report against the petitioners in S.T.C.No.5444 of 2021 on the file of the learned Judicial Magistrate III, Coimbatore for offences under Sections 143 and 269 of IPC.

4.This petition is filed mainly on the ground that as far as Sections 143 and 269 IPC are concerned, the petitioners are citizens of India, who conducted a demonstration in a democratic manner and there is no intention on the part of the petitioners to spread the disease to others.

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

6.The offence under Sections 269 and 143 IPC are concerned, as per the contents of the First Information Report, it is seen that the petitioners protested in an unlawful manner and shouted slogans during the pandemic period. It is a trivial matter in which no offence of grievous nature is involved. Even though Section 144 Cr.P.C order was in force, during the relevant time the respondent police ought to have warned the petitioners to go in-door, instead of that, they filed a case. It is also not the case of the respondent that at the time of the incident, the petitioners were affected by Covid-19. So the contention that conducting protest during the pandemic period will spread the disease is without any basis. Section 143 IPC is concerned, it specifies the period of punishment for a person who is a member of an unlawful assembly.

8. Section 141 IPC defines unlawful assembly as under:

141. Unlawful assembly –

An assembly of five or more persons is designated



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an
"unlawful assembly", if the common object of the
persons composing that assembly is

First To overawe by criminal force, or show of
criminal
force, 1the Central or any State Government or
Parliament or the Legislature of any State, or any
public servant in the exercise of the lawful power
of such public servant; or

Second To resist the execution of any law, or of
any
legalprocess; or

Third To commit any mischief or criminal trespass,
or
other
offence; or

Fourth By means of criminal force, or show of
criminal force, to any person, to take or obtain
possession of any property, or to deprive any
person of the enjoyment of a right of way, or of
the use of water or other incorporeal right of
which he is in possession or enjoyment, or to
enforce any right or supposed right; or Fifth By
means of criminal force, or show of criminal
force, to compel any person to do what he is not
legally bound to do, or to omit to do what he is
legally entitled to do.

7. In the light of the above definition when we look into the final report, we can easily say that it cannot be termed as unlawful assembly. Similarly for attracting offences under Sections 143 and 269 IPC also, there are no materials to show that the petitioners were also affected by Covid-19 virus and because of their assembly virus spread to others. Since in the absence of any such materials on record, the offence under Sections 143 and 269 IPC are not attracted.

8. Considering the nature of allegations and the offences involved in this case, this Court is of the considered view that protesting for agricultural farmers should not be a reason for spoiling the future of the petitioners. Unintended casual act should not take away the future of the petitioners. More over, it is also brought to the notice of this Court that the Government is also going to drop all these cases, which have been registered



during the pandemic period against the public. Taking all these aspects into account, this Court is of the considered view that the proceedings in S.T.C.No.5444 of 2021 on the file of the learned Judicial Magistrate No.III, Coimbatore, is liable to be quashed and the same is quashed.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is also closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

vr
To

1. The Judicial Magistrate-III,
Coimbatore.
2. -Do- Thro' The Chief Judicial Magistrate,
Coimbatore.
3. The Inspector of Police,
C2 Race Course Police Station,
Law and Order,
Coimbatore.
4. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.S.Manoharan, Advocate Sr.17237

Cr1.O.P.No.5641 of 2022
and Cr1.M.P.No.3120 of 2022

pmk[co]
srg 28/03/2022