

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 4.3.2022.

CORAM

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

CRIMINAL ORIGINAL PETITION (MD) NO.3624 OF 2022

AND

CRL.M.P. (MD) NO.2664 OF 2022

Muthukumar

Petitioner

vs.

1. State rep. by  
The Sub Inspector of Police,  
Kottar Police Station,  
Kanyakumari District.  
(Crime No.37 of 2021)

2. Mr.Robert Jain  
The Sub Inspector of Police,  
Kottar Police Station,  
Kanyakumari District.

Respondents

Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records pertaining to the impugned FIR in Crime No.37 of 2021 on the file of the respondent and quash the same in respect of the petitioner as illegal.

For Petitioner : Mr.G.Anto Prince

For Respondents : Mr.A.Gokulakrishnan, APP

ORDER

The petition has been filed seeking to quash the FIR in Crime Nos. 37 of 2021 on the file of the respondent police insofar as the petitioner is concerned.

2. The petitioner is alleged to have committed offences punishable under Sections 143, 269, 270, 283, 290 and 341 IPC and Section 71(xi) and 73 of Tamil Nadu City Police Act, 1888 and Section 3 of Epidemic Diseases Act, 1897 on the file of the respondent police on the allegation that on 30.1.2021, at about 11.15 hours, when the de facto complainant the second respondent herein, who was the then Sub Inspector of Police, Nesamani Nagar

Police Station, Kanyakumari District, alongwith other police officials, was on patrol duty at DVD Colony Road, Nagercoil, Kanyakumari District, the petitioner, without any prior permission and without following the pandemic protocol restrictions, had participated in the protest made by a group of people headed by Mr.Suresh Rajan, Member of Legislative Assembly, Nagercoil (DMK party) seeking for maintenance and repair of the damaged roads of Nagercoil Corporation and caused hindrance to the general public transport and despite the warning given by the respondent police, he had continued to protest as against the then Government of Tamil Nadu and thereby caused the above offences.

3. Learned counsel appearing for the petitioner would submit that the petitioner had not committed any offence as alleged and the complaint lodged against him is a false one due to political rivalry. He would submit that the petitioner had participated in a peaceful democratic protest headed by Mr.Suresh Rajan, MLA, DMK party alongwith other 35 party men for a common cause, however, the respondent police had mechanically registered the FIR against the petitioner without conducting any preliminary enquiry to ascertain whether the information attracts cognizable offence as contemplated in the decision in Lalitha Kumari vs. Government of UP in ((2014) 2 SCC 1). He would also submit that the FIR does not disclose any specific role played by the petitioner in the protest and it is very vague and therefore it is liable to be quashed. He would rely on the decision in Neelu Chopra and another vs. Bharti ((2010) 1 SCC 286).

4. Learned Additional Public Prosecutor would submit that when the police officials were discharging their patrol duty at DVD colony Road, Nagercoil, Kanyakumari, the petitioner, without any prior permission and without following the pandemic protocol restrictions, was found to have participated in the protest headed by Mr.Suresh Rajan, MLA, DMK party alongwith other 35 party men, raising some slogans against the then Government and its functions and also causing hindrance to the public and free flow of traffic in the peak hour and thereby had committed the offences and he would pray for dismissal of the petition.

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

6. A perusal of the materials available on record including the contents of the FIR shows that the complaint has been lodged by the police personnel himself in a mechanical manner without complying with the guidelines issued by the Apex Court in the decision in Lalitha Kumari vs. Government of UP in ((2014) 2 SCC 1) and without any specific allegation against the present

petitioner as contemplated in the decision in Neelu Chopra and another vs. Bharti ((2010) 1 SCC 286).

7. In the case on hand, the petitioner being supporter of the MLA Mr.Suresh Rajan, the petitioner is said to have gathered and made a protest against the administration of the then Government in maintaining public roads in Kanyakumari District. Excepting that, no specific allegation of any criminal offence has been attributed to the petitioner nor any injury to anybody is said to have been caused by him. Apart from raising of voice in support of his leader, the petitioner could not be attributed with any miscreation, by the prosecution.

8. The petitioner, belonging to a political party, has merely joined his party men in showing protest against the then ruling party for a public cause viz., maintenance of public road in Kanyakumari District. 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."

9. In the circumstances of the case, this court does not see any reason to permit continuance of the prosecution against the petitioner and thereby the Criminal Original Petition is allowed and the impugned FIR in Crime No.37 of 2021 on the file of the 1st respondent Police insofar as the present petitioner is concerned stands quashed. The connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

ssk.

Sub Assistant Registrar

To

1. The Sub Inspector of Police,  
Kottar Police Station,  
Kanyakumari District.
2. The Additional Public Prosecutor,  
High Court, Madras.

Crl.O.P. (MD) No.3624 of 2022  
and  
Crl.M.P.(MD) No.2664 of 2022

SS(CO)  
PM/28/03/2022