



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

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THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.5041 of 2022
and Crl.M.P.No.2692 of 2022

1.Abdul Rauf
2.Noor Mohamed

... Petitioners/Accused (A1, A8)

Vs.

The State represented by,
The Sub-Inspector of Police,
Mangalampet Police Station,
Cuddalore - 606 104.
(In Crime No.195 of 2021)

... Respondent/Complainant

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records in Crime No.195 of 2021 on the file of the respondent police and quash the same.

For Petitioners: Mr.A.Rajamohamed

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in Crime No.195 of 2021, dated 10.06.2021, on the file of the respondent/ Mangalampet Police Station, Cuddalore District, for the offences under Sections 143 & 188 of IPC, Section 3 of Epidemic Diseases Act, 1897 and Section 51(b) of the Disaster Management Act 2005.

2.The case of the prosecution is that the petitioners along with some other accused in violation of promulgation order issued under Section 144 of Cr.P.C, assembled and participated in the protest against the increase in the price of Gas, Petrol and Diesel without any prior permission from the concerned authorities, when the respondent police had warned that they were illegally conducting the protest, the accused have dispersed from the place. Based on the complaint of the respondent a case in Crime No.195 of 2021, dated 10.06.2021 was registered against the petitioners and the other accused, for the offence as stated above.



3.The learned counsel appearing for the petitioners would submit that the petitioners are social activists and have been raising voice for the public cause and public welfare, whenever there seems injustice and inaction of the Government machineries. The petitioners are the citizens of this Country and they have 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 curtailed only in proportional manner through a fair and non-arbitrary procedure provided under Article 19 of the Constitution of India. It is the duty of the Government to protect the rights of freedom of speech and assemble that is essential to a democracy. Even, as per the FIR, there was no violation or untoward incident and it is the case of the prosecution that when warned the petitioners have dispersed from the place. The petitioner does not have any intention to spread any deace and there is no material to show that the petitioners have committed any such offence. Further for the offence under Section 3 of the Epidemic Diseases Act, 1887, is concerned, it can be invoked only when Section 188 of IPC is applicable. He would further submit that the Hon'ble Madurai Bench of this Court in CrI.O.P.No.12448 of 2020, in the case of Henri Tiphagne Vs. The Sub-Inspector of Police and Another, in similar facts finding that no untoward incident or any act of violence had happened, had quashed the proceedings. He would further submit that the Government has also directed to withdraw of cases registered during the pandemic period. Further, the petitioner is also similarly placed as that of the petitioner in the above mentioned Judgment and hence, the said judgment squarely applicable to the facts of the present case, he prayed to quash the proceedings.

4.The learned Additional Public Prosecutor would submit that the petitioners, in violation of the orders passed under Section 144 of the Cr.P.C assembled unlawfully and raised slogans against the increase of price of fuel without getting any permission and when they were warned they left the scene of occurrence. However, he would submit that there was no Act of violence or untoward incident.

5.Heard the learned counsel on either side and perused the materials placed on records.

6.In this case the allegation against the petitioners along some other accused is that they have unlawfully assembled in violation of restrictions imposed under Section 144 of Cr.P.C., and raised slogans and when the respondent police had warned



them, they have dispersed from the place. In Crl.O.P.No.12448 of 2020, dated 05.11.2020, in the case of Henri Tiphagne Vs. The Sub-Inspector of Police and Another the Hon'ble Madurai Bench of this Court has held as follows:

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"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."

7.Considering the nature of allegations and the offences involved in this case, this Court is of the opinion that protesting for the welfare of the public should not be held to be a reason for spoiling the future of the petitioners. Unintended casual act, without any act of violence, should not take away the future of the petitioners. Moreover, it is also brought to the notice of this Court that the Government is also going to drop all cases, which have been registered during the covid pandemic period against the public. Taking all these aspects into account, this Court is of the considered view that FIR in Crime No.195 of 2021 on the file of the respondent police is liable to be quashed and that no useful purpose will be served by keeping the proceedings pending in respect of all the other accused also.

8.Accordingly, the Criminal Original Petition stands allowed and the proceedings in Crime No.195 of 2021, dated 10.06.2021, on the file of the respondent/Mangalampet Town Police Station, Cuddalore District, are hereby quashed in respect of the petitioners as well as the other accused also. Consequently, connected miscellaneous petition stands closed.

Sd/-
Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

Dua/Gd



To

1.The Sub-Inspector of Police,
Mangalampet Police Station,
Cuddalore - 606 104.

2.The Public Prosecutor,
High Court, Madras.

+2ccs to Mr.A.Rajamohamed, Advocate SR.No.14872

Cr1.O.P.No.5041 of 2022
and Cr1.M.P.No.2692 of 2022

MG(CO)
GMY(28/03/2022)