



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.6595 of 2022
and Crl.M.P.Nos.3747 & 3749 of 2022

1. Niruban
2. Easakimuthu
3. Chandru
4. Prabhakaran
5. Vignesh
6. Zohaibmiyahith
7. Sureka
8. Hemalatha
9. Subash Chandra Boss
10. Ananth
11. Sathishkumar
12. Rajendraprasath
13. Sankaraya
14. Bharathi
15. Sathishkumar
16. Akash
17. Surjith
18. Adiya @ Adhitya

...Petitioners/Accused

Vs.

1. The State represented by,
Sub-Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai - 101.

2. C.Lawrance Mani

...Respondents

PRAYER : The Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleased to call for records in C.C.No.6394 of 2018 on the file of the learned XIII Metropolitan Magistrate Court, at Egmore and to quash the same.

For Petitioners : Mr.R.Thirumoorthy
For R1 : Mr.A.Gokulakrishnan
Additional Public Prosecutor.



O R D E R

The Criminal Original Petition has been filed to call for records in C.C.No.6394 of 2018 on the file of the learned XIII Metropolitan Magistrate Court, Egmore and to quash the same.

2. The case of the prosecution is that the petitioners and other accused belong to the organization of Student Federation of India (SFI) had assembled at the entrance of CBSE South Zone Head Office in Anna Nagar west on 07.05.2018 and protested in an unlawful manner against the allocation of exam centre for the Tamil Nadu students in other states for NEET exam and raised slogans against the Central Government and thereby, caused disturbance to the general public. Hence, a case in Crime No.218 of 2018 was registered against the petitioners for the offences under Sections 143, 353 and 188 of IPC on the same day.

3. This petition is filed mainly on the ground that Section 188 IPC is non-cognizable offence and the police has no right to register the case and investigate.

4. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

5. In the judgment reported in 2018(2) L.W (Cr1.)606 (In Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another) it has been held that the police has no right to file a case under Section 188 IPC and to investigate the same without getting proper permission from the concerned jurisdictional Magistrate. Here, there is no material to show that before registering the case, permission of the concerned jurisdictional Magistrate has been obtained. In such circumstances, the respondent has no right to register the case and to investigate the matter.

6. A detailed guideline has been issued by this Court in the judgment cited supra. On this aspect, Section 188 IPC will not stand against the petitioners. The offence under Sections 143 and 353 IPC are concerned, as per the contents of the First Information Report, it is seen that the petitioners protested in an unlawful manner and no act of violence or untoward incident is reported. It is a trivial matter in which no offence of grievous nature is involved. Section 143 IPC is concerned, it specifies the period of punishment for a person who is a member of an unlawful assembly.



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.

8. In view of the above, this Court is of the opinion that no useful purpose will be served in continuing the proceedings in respect of all the other accused also.

9. Accordingly, the Criminal Original Petition stands allowed and the proceedings in C.C.No.6394 of 2018 on the file of the learned XIII Metropolitan Magistrate, Egmore in respect of all the accused is quashed. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ham/rgi
To

1. The XIII Metropolitan Magistrate
Egmore
2. The Sub-Inspector of Police,
V-5, Thirumangalam Police Station,
Chennai - 101.
3. The Public Prosecutor,
High Court of Madras.

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and
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KV(CO)
SP(08/04/2022)