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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2022

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.NO.7027 OF 2022

AND

CRL.M.P.NO.3978 OF 2022

1. A.Abdul Sathik @ Sathik
2. Navaskhan

... Petitioners/A1 and A5

Vs.

The State Rep. by.,
The Inspector of Police,
Mayiladuthurai Police Station,
Nagapattinam District.
(Crime No.: 145/2020)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records FIR in Crime No.145 of 2020 dated 13.03.2020 on the file of the Respondent Police and quash the same as against the petitioners.

For Petitioners : Mr.K.Ezhumalai

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

ORDER

The Criminal Original Petition has been filed to call for the records FIR in Crime No.145 of 2020 dated 13.03.2020 on the file of the Respondent Police and quash the same as against the petitioners.

2. The case of the prosecution as per the respondent/complainant is that on 13.03.2020, when promulgatory orders under Section 144 of Cr.P.C.was in force, the named accused who belongs to Muslim organisation along with others without following the regulatory orders of Covid-19 protocol formed into an unlawful assembly without any prior permission and protested



against the CAA, NRC, NPR Act and also against the arrest of Muslims, who participated in the protest in Delhi and Uttar Pradesh and thereby caused obstruction in public way restraining the movement of public. Based on the complaint, a case in Crime No.145 of 2020 was registered for the offences under Sections 341, 143, 283 of IPC. The present application has been filed by the petitioners to quash the First Information Report in Crime No.145 of 2020 on the file of the respondent police.

3.The learned counsel appearing for the petitioners would submit that the petitioners and other accused are citizens of this Country and the Constitution of this Country guarantees its citizens the freedom of speech and expression, assemble peacefully and without arms and to form Associations and to move freely throughout the Territory of India. The petitioners have peacefully assembled and demonstrated without causing any disturbance and they have not involved in any act of violence and even as per the version of the prosecution no untoward incident had happened. He further submitted that this Court in similar matters where demonstrations were made against the policies of the Government had in Crl.OP(MD).No.12438 of 2020 dated 05.11.2020 and Crl.OP(MD).No.4609 of 2021 dated 25.03.2021, had quashed the proceedings thereunder. The learned counsel for the petitioners further submitted that this Court in those cases found that no offences were made out against the accused therein and had quashed the entire proceedings in respect of all the accused. The learned counsel for the petitioners also relied on the relevant portion of the order of this Court in :

(i)Crl.O.P(MD) No.12438 of 2020 dated 05.11.2020, which reads as follows:-

"5.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."

(ii) In Crl.O.P.No.4609 of 2021 dated 25.03.2021, which reads as follows:



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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.

6. In the view of the above definition scanning through the FIR, it cannot be termed as an unlawful assembly. Similarly for attracting offences under Section 341 IPC, there should be material to show that the petitioners have wrongfully restrained anybody. In this case, no public has made complaint against the petitioners and further there is no material to show that the traffic was paralysed that they caused danger or obstruction of public way

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 has also intended 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 keeping the First Information Report in Crime No.145 of 2020 on the file of the respondent as against the other remaining accused is also an abuse of process of law.

8. In view of the above, the First Information Report in Crime No.145 of 2020 on the file of the respondent stands quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

//True Copy//

Sub Assistant Registrar

nr/nti



To

1. The Inspector of Police,
Mayiladuthurai Police Station,
Nagapattinam District.

2. The Public Prosecutor,
High Court, Madras.

+2ccs to M/s.H.Thameen Ansari, Advocate, S.R.No.21406

CrI.O.P.No.7027 of 2022
and
CrI.M.P.No.3978 of 2022

GPL (CO)
RLP (29/04/2022)