



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9077 of 2022

and

Crl.M.P.No.5276 of 2022

Syed Ahamed

... Petitioner/Accused

Vs

State rep., by,
The Sub-Inspector of Police,
T-1, Ambattur Police Station,
Ambattur.

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, pleased to call for the records and quash the proceedings as against the petitioner in Crime No.1575 of 2019, pending on the file of the respondent.

For Petitioner : Mr.H.Thameem Ansari

For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed seeking to call for the records in Crime No. 1575 of 2019, pending on the file of the respondent police and quash the same.

2. The case of the prosecution is that on 09.08.2019, the Sub-Inspector, while on his regular patrol checkup had found that 41 members assembled near Ambattur Railway Station without obtaining any permission to conduct protest and they have raised slogans against the Government for amendment of RTI law enforcement in the Constitution of India and attempted to block the train. Since, the Sub-Inspector of Police had directed them to disburse, they did not disburse and thereby, the respondent police had arrested them and registered the case in Crime No. 1575 of 2019 for the offence under Sections 143, 290 of IPC and 41(6) of TN City Police Act.



3. The learned counsel appearing for the petitioner would further submit that insofar as the offence under Section 143 IPC is concerned, the police officer has quoted Section 41(6) of TN City Police Act and straightaway proceeded to register FIR under Section 143 IPC. He would further submit that the facts of the case are similar to the case covered in the decision reported in 2018 2 LW (Cr1) 606 [Jeevanandham and others Vs The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018 and in Sri Raja Vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District and other in Cr1.O.P(MD). No.7922 of 2019 etc batch dated 30.08.2019.

4. The learned Additional Public Prosecutor appearing for the respondents would submit that the facts of the case are similar to the facts covered under the Judgment referred above.

5. Heard both sides and perused the materials available on record.

6. In the Judgment reported in 2018 2 LW (Cr1) 606 [Jeevanandham and others Vs The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018, it has been held that the police has no right to file a case under Section 143 of 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.

7. In view of the above, this Court is of the opinion 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.1575 of 2019, pending on file of the Respondent Police, is hereby quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Inspector of Police,
T-1, Ambattur Police Station,
Ambattur.

2. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.M.Mohamed Riyaz, Advocate, S.R.No.27720 (16/05/2022)

Cr1.O.P.No.9077 of 2022
and
Cr1.M.P.No.5276 of 2022

VG-II(CO)
SU(13/05/2022)