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IN THE HIGH COURT OF JUDICATURE AT MADRAS

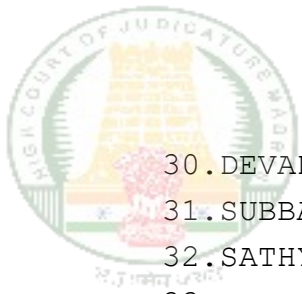
DATED : 24.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRL.O.P.NO.16932 OF 2018
AND CRL.M.P.NOS.8743 AND 8744 OF 2018

- 1.JAYAKUMAR
- 2.SANKAR
- 3.PALANI
- 4.ELUMALAI
- 5.KUMAR
- 6.ARUNKUMAR
- 7.PONMURUGAN
- 8.ILAIYARASAN
- 9.KAMALESH
- 10.DHINAKAR
- 11.MUTHAMIZHSELVAN
- 12.SENTHILKUMAR
- 13.MATHIVANAN
- 14.SARGAN
- 15.GANESAN
- 16.RAJENDRAN
- 17.SAMPATHKUMAR
- 18.MADAN
- 19.RADHAKRISHNAN
- 20.SURESH
- 21.STALIN
- 22.ARUMUGAM
- 23.MANIKKAM
- 24.KANNAN
- 25.N.ARUNACHALAM
- 26.GNANAM
- 27.GIRIDHARAN
- 28.THIRULOGASUNDAR
- 29.GNANAMORHTY



30.DEVADOSS

31.SUBBAIYA

32.SATHYAMOORTHY

33.DURAIMURUGAN

34.RAJARAMAN

35.SUDHAKAR

36.ARUNKUMAR

37.MANO HAR

38.PRABHAKARAN

39.RAMESH

40.VENKATESAN

41.SUMATHIKUMAR

42.VENKATESAN

43.SEENIVASAN

44.BASKAR

45.VIKNESH

46.KAMAL

47.JAGATHISH

...Petitioners / Accused 1 to 47

Vs

State by:

Inspector of Police

T-16, Nasaratpet Police Station,

Poonamallee, Chennai - 600123.

(Crime No.1119 of 2017)

...Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to quash the proceedings against the petitioners filed in S.T.C.No.3511 of 2017 on the file of Judicial Magistrate No.1, Poonamallee.

For Petitioner : Mr.R.Rajasekaran

For Respondent : Mr.R.Kishore Kumar
Government Advocate(Crl.side)

O R D E R

This Criminal Original Petition has been filed to quash the proceedings filed against the petitioners in S.T.C.No.3511 of 2017 on the file of Judicial Magistrate No.1, Poonamallee for the offence under Sections 143 and 188 of IPC.



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2. The crux of the allegations is that the petitioners who showing their protest in support of leader who walked out of the Assembly, these petitioners were unlawfully assembled and made a protest. Thereby, they committed the aforesaid offence.

3. Except the allegation that the petitioners have unlawfully assembled, there is no other allegation as against them. It is to be noted that, to constitute the offence under section 143 IPC, five or more persons should have assembled in order to commit any offence. Only the act of the accused fit into any of the ingredients under Section 141 of IPC, such assembly could be called as unlawful assembly. Therefore, mere assembly to show their protest in democratic manner, cannot be said to be an unlawful assembly. Therefore, the offence under Section 143 IPC will not be made out in this case.

4. As far as Section 188 IPC is concerned, there are no materials available in the final report to show that there was promulgation order which was disobeyed. Further, it is to be noted that the offence under Section 188 of I.P.C could be taken only on the complaint by the Public Servant or sanction. It is only a complaint procedure. Further, that apart, as indicated, there are no materials available on record to show that there was any order violated. In such view of the matter, continuing the final report is nothing but futile exercise and will not serve any purpose. Accordingly, the proceedings in S.T.C.No.3511 of 2017 on the file of Judicial Magistrate No.1, Poonamallee is quashed and this Criminal Original Petition is allowed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

msv

To

1.The Judicial Magistrate No.1,
Poonamallee

2.(do through) The Chief Judicial Magistrate,
Tiruvallur.

3.The Inspector of Police
T-16, Nasaratpet Police Station,
Poonamallee, Chennai - 600123



4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Rajasekaran, Advocate Sr.No.3936

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JPL(CO)
RVM(11/02/2022)