



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 24.01.2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl. O.P. No. 17481 of 2018

Crl.M.P.No.9051 of 2018

1.R.Umapathy
2.Jeyanesan
3.Thabasi Kumaran
4.Periyar Yuvaraj
5.Dhenraj
6.Munusamy
7.Pandiyan
8.Kumar
9.Manohar
10.Vivek
11.Arunkumar
12.Raji

...Petitioners/ Accused 1 to 12

Versus

The State represented by
The Inspector of Police,
R-1, Mambalam Police Station,
Law & Order,
T.Nagar,
Chennai-600 017.

...Respondent / Complaint

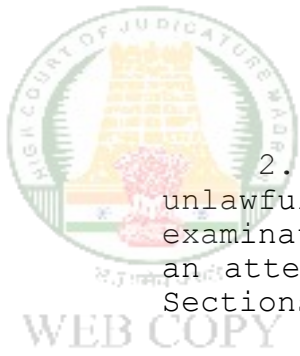
PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.8001 of 2017, on the file of the XVII Metropolitan Magistrate, Saidapet and quash the same.

For Petitioners : Mr.R.Thirumoorthy

For Respondent : Mr.R.Kishore Kumar
Govt.Advocate (Crl.Side)

ORDER

This Petition has been filed to quash the final report in C.C.No.8001 of 2017, filed against the accused for the offences under Sections 143, 188 and 285 IPC, on the file of the XVII Metropolitan Magistrate, Saidapet.



2. The crux of the final report is that the accused unlawfully assembled and raised slogans to revoke the NEET examinations conducted by the Central Government and also made an attempt to fire effigy and thereby, committed offences under Sections 143, 188 and 285 IPC .

3. The learned counsel appearing for the petitioners submitted that they have not assembled unlawfully and they made their democratic protest over the suicide of the girl student due to her failure in the NEET examination. As the right to protest is inherent in the constitutional right, they have not assembled to commit any offence and offence under Section 143 IPC would not be attracted against the petitioners. Similarly, the Court cannot take cognizance of the offence under Section 188 IPC, as no the complaint has been made by the public servant concerned. Similarly, to attract the offence under Section 295 IPC, except stating that the accused made an attempt to burn the effigy, there are no other materials to show that the accused had caused any endanger to human life. Hence, prayed to quash the entire proceedings.

4. Heard the learned counsel on both sides and perused the entire materials available on record.

5. The entire materials unearthed by the prosecution shows that the protest itself is outburst of the suicide of a student named as Anitha, despite securing highest marks, she could not secure a seat in higher studies. Therefore, the accused appears to have made a democratic protest by raising voice against the Central Government to revoke the NEET Examination. Therefore, this Court is of the view that if the persons protest in a democratic manner without having any intention to commit any offence, their gathering cannot be called as unlawful assembly. The protest has been made to bring to the notice of the Government about the death of the girl student and revoke the NEET examination due to sufferings of some of the students. Therefore, mere demonstration expressing their view in a democratic manner cannot constitute any offence under Section 143 IPC. Their gathering to make a protest peacefully and their act as long not fit into any of the category mentioned under Section 141 IPC, it cannot be construed as an unlawful assembly.

6. As far as offence under Section 188 IPC, is concerned the Court can take cognizance of the offence only on the complaint made by the public servant concerned. The entire materials unearthed by the prosecution do not show the nature of promulgation or it has been disobeyed by the accused. Therefore, the offence under Section 188 IPC would not be attracted in this case. Similarly, to attract an offence under Section 285 IPC, it must be shown that the accused acted so rashly or negligently so



as to endanger human life. Therefore, mere attempt to burn some effigy, the rashness and negligent act cannot be contributed in the absence of any endanger likely to cause to the human or any other persons. In such view of the matter, this Court is of the view that the entire prosecution materials unearthed even taken as face value would not constitute any offence. Hence, continuation of the prosecution against the petitioners is a futile exercise and the same has to be quashed.

7. Accordingly, this Criminal Original Petition is allowed. The final report in C.C.No.8001 of 2017, on the file of the XVII Metropolitan Magistrate, Saidapet is quashed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

psa/ggs

To

- 1.The learned XVII Metropolitan Magistrate,
Saidapet.
- 2.Do Through The Chief Metropolitan Magistrate
Egmore, Chennai.
- 3.The Inspector of Police,
R-1, Mambalam Police Station,
Law & Order,
T.Nagar,
Chennai-600 017
- 4.The Public Prosecutor,
High Court, Madras.

Cr1. O.P. No. 17481 of 2018

GPL(CO)
SB(21/02/2022)