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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.24401 of 2021
and
CRL.M.P.No.13457 of 2021

Ashwathaman

...Petitioner

Versus

1.State Rep.by
The Inspector of Police (L&O),
J4, Kotturpuram Police Station,
Kotturpuram,
Chennai - 600 085.

2.K.Ajukumar,
The Inspector of Police (L&O),
J4, Kotturpuram Police Station,
Kotturpuram,
Chennai - 600 085.

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the charge sheet in C.C.No.4977 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same.

For Petitioner : Mr.Suresh
for M/s.M.P.Saravanan

For Respondents : Mr.E.Raj Thilak for R1
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to the charge sheet in C.C.No.4977 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai and quash the same as illegal.

2. The case of the prosecution is that the de-facto complainant preferred a complaint before the first respondent/Police stating that he is working as an Inspector in the first respondent Police Station. While so, on 15.11.2019 at about 12.15 p.m., members of the National Congress Political Party, assembled unlawfully in front of IIT



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Main Gate under the head of petitioner, who is the President of the National Congress Students' Federation and he belongs to National Congress Political Party, without obtaining any prior permission from the Government and blocked the road disturbing the public and free flow of traffic, showing protest against the suicide committed by one IIT student at IIT Campus, Chennai and sought for arrest of the IIT Professor alleged to have abetted her suicide. Hence, the Inspector of Police lodged a complaint before the first respondent and an FIR came to be registered in Crime No.406 of 2019 for the offences under Sections 143, 145 of IPC r/w 41 of TN CP Act and the same has been taken on file in C.C.No.4977 of 2017 before the learned IX Metropolitan Magistrate, Saidapet, Chennai on 12.12.2020.

3. The learned counsel appearing for the petitioner submitted that the Hon'ble Supreme Court of India has held that the right to freely assemble and also right to freely express one's views are constitutionally protected rights under Part III and their enjoyment can be only in proportional manner through a fair and non-arbitrary procedure provided in Article 19 of Constitution of India. He further submitted that it is the duty of the Government to protect the rights of freedom of speech and assemble that is so essential to a democracy. Further, he submitted that the petitioner or any other members had never involved in any unlawful assembly and there is no evidence that the petitioner or others restrained anybody. However, the officials of the respondent police had beaten the petitioner and others. When there was lot of members involved in the protest, the respondent police had registered this case, as against the petitioner and others. Therefore, he sought for quashing the proceeding.

4. Per contra, the learned Additional Public Prosecutor submitted that the petitioner along with others assembled in large numbers and there are specific allegations as against the petitioner to proceed with the trial. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6. On perusal of the charge, it is seen that the petitioner along with other accused without getting prior permission from the concerned authority assembled and blocked the road. Therefore, the respondent police levelled the charges under Sections 143, 145 of IPC r/w 41 of TN CP Act. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charges against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial.



7. In the case on hand, the First Information Report has been registered by the respondent police for the offences under Sections 143, 145 of IPC r/w 41 of TN CP Act. Further, the complaint does not even state as to how the protest formed by the petitioner and others is an unlawful protest and does not satisfy the requirements of Section 143, 145 of IPC r/w 41 of TN CP Act. Therefore, final report cannot be sustained and it is liable to be quashed.

8. Accordingly, the proceedings in proceedings in C.C.No.4977 of 2019 on the file of the learned IX Metropolitan Magistrate, Saidapet, Chennai, is quashed as against the petitioner and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police (L&O),
J4, Kotturpuram Police Station,
Kotturpuram,
Chennai - 600 085.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.P.Saravanan, Advocate SR. No.4171

CRL.O.P.No.24401 of 2021
and
CRL.M.P.No.13457 of 2021

GPL (CO)
PR (27/01/2022)