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Crl.O.P.No.15951 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.15951 of 2022

Nivedha

... Petitioner

Vs.

State rep. by
The Inspector of Police
E-3, Teynampet Police Station
Chennai

... Respondent

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records in the F.I.R. in Crime No.53 of 2022 dated 14.02.2022 on the file of the Inspector of Police, E-3, Teynampet Police Station, Chennai and quash the same.

For Petitioner : Mr.C.Karthikeyan

For Respondent : Mr.E.Raj Thilak

Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed seeking to quash the proceedings against the petitioner in Crime No.53 of 2022 on the file of the Inspector of Police, E-3, Teynampet Police Station, Chennai.

2. The crux of the allegation in the FIR is that on 14.02.2022 at about 12.30, a group consisting of 35 persons belong to ABVP party, tried to move towards the Chief Minister's Office. Though they were prevented by the defacto complainant and her police party, they raised slogans seeking justice to the death of one Lavanya and also raised slogans that the main culprit involved in the said Lavanya's death has come out from the jail and there must be a proper action besides, they also demanded prevention of Voluntary Conversion of Religious Act and thereby, FIR was registered for the offences under Sections 143, 147, 153(A), 353 IPC Section 3 of TNPPDL Act.

3. The learned counsel appearing for the petitioner submitted that the group narrated in the FIR are only students and they did not commit any offence as alleged by the prosecution and that they just conducted a democratic



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protest seeking some justice, in the road where the Chief Minister is moving.

But, the FIR has been registered as if, the accused tried to enter into the Chief Minister's official residence, which is not correct. They only raised slogans seeking justice to the death of one Lavanya. The further contention of the petitioner is that the petitioner is one among the 4 students who have been selected to represent on behalf of India, for the Youth 20 (Y20) Summit to be held at Jakarta, Indonesia from 17th to 24th July 2022. He would further submit that even if the entire allegation in the FIR is taken on its face value, the same would not constitute any offence against the petitioner as the identity of the petitioner has not been established in the FIR. Hence, he seeks to quash the above proceedings against the petitioner.

4. Mr.E.Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent police filed counter and submitted that the accused are belong to ABVP party and they tried to enter into the Chief Minister's Office and it was not an ordinary slogans they raised and in fact they tried to commit offence. He would further submit that though the right to protest is the fundamental right, it always subject to reasonable restrictions and he also placed reliance on the Judgments of the Hon'ble Apex Court in *Mazdoor Kisan Shakti Sangathan Vs.*



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Union of India and another reported in 2018 (9) Scale 134 and in Neharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra 2021 SCC Online SC 315 and in Himat Lal K.Shah Vs. Commissioner of Police, Ahmedabad and another reported in 1973 (1) SCC 227.

5. The learned Additional Public Prosecutor pointed out that though the right to protest is a fundamental right, but it always subject to reasonable restrictions. But the fact remains that, the accused being students have gathered in the road and raised slogans demanding some justice to the death of one of the girl student namely Lavanya and also demanded some law and as such, there were some melee and altercations. Though it is the right of person to hold such a protest, however without obtaining any permission, it cannot be encouraged. At the same time, a perusal of the allegations in the FIR indicate that only unnamed persons were shown as accused in the FIR and no identity has been established. Even assuming that no permission was obtained, the cause for such gathering only for demanding some law and bring it to the notice of the Hon'ble Chief Minister seeking legal action against the culprit who is said to have caused the death of one Lavanya who happened to be a student. When such view of the matter, this Court is of the view, mere violation in obtaining



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permission, the students who gathered without committing any offence should not be slapped with such serious provisions of law which according to this Court, is not according to law. Further, in the FIR, the petitioner's name is not mentioned. More over, out of the 4 students selected from India, the petitioner appears to be the only one selected from Tamil Nadu to represent on behalf of India, for the Youth 20 (Y20) Summit to be held at Jakarta, Indonesia from 17th to 24th July 2022. Hence, the respondent police should be magnanimous and to see that her future is not spoiled. In such view of the matter, the FIR registered in Crime No.53 of 2022 against the petitioner alone is quashed.

6. Accordingly, this Criminal Original Petition is allowed.

11.07.2022

Speaking Order/Non-speaking Order

Index :Yes/No

Internet:Yes/No

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N. SATHISH KUMAR,J.

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To

- 1.The Inspector of Police
E-3, Teynampet Police Station
Chennai
2. The Public Prosecutor
High Court, Madras

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