



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.21004 of 2021

and

Crl. M.P. Nos.11410 & 11412 of 2021

- 1.Shantha Kumar
- 2.Anbu
- 3.Kumaran
- 4.Baskar
- 5.Santhanam
- 6.Rajiniraji @ Raj velu
- 7.Balan
- 8.Prabhu
- 9.Kannan
- 10.Ganesh Babu
- 11.Srinivasan
- 12.Rajesh
- 13.Rajendran

... Petitioners

Versus

1. The State represented by
The Inspector of Police,
V-5, Thirumangalam Police station,
Chennai.

- 2.Mr.Narayanan

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in charge sheet filed in C.C. No.4225 of 2020 pending on the file of the learned XIII Metropolitan Magistrate at Egmore, Chennai under 482 Cr.P.C. and quash the same.

For Petitioner	:	Mr.M.Ganesh Babu
For Respondents	:	Mr.E.Raj Thilak Additional Public Prosecutor



ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C. No.4225 of 2020, pending on the file of the Metropolitan Magistrate-XIII, Egmore, Chennai as against the petitioner.

2. The case of the prosecution is that on 11.11.2019, without getting prior permission, the petitioner along with others joined together and blocked the V.R. Mahal, 100 Feet Road and thereby causing the disturbance to the traffic and the public. Hence, a case has been registered in Crime No.398 of 2019 for the offences under Sections 143, 188 and 353 of IPC subsequently altered to Sections 143 & 353 of IPC and the proceedings in C.C. No.4225 of 2020, pending on the file of the learned XIII Metropolitan Magistrate at Egmore, Chennai initiated against the petitioner.

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 right to freely express once view 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 right of freedom of speech and assemble which is essential in a democracy. According to Section 195(1)(a) of Cr.P.C., no Court can take cognizance of an offence under Section 188 of IPC, unless the public servant has written order from the authority. Further he submitted that the petitioner or any other members never involved in any unlawful assembly and activities, there is no evidence that the petitioner or others wrongfully restrained anyone. Hence, he sought quashing of proceedings.

4. Per contra, the learned Additional Public Prosecutor submitted that the petitioner is the president of the organization viz., 'Makkal Padugappu Perravai' and other petitioners are the members of the said organization. On 11.11.2019, while the respondent police was on the regular duty using the patrol, the petitioners along with others joined together and blocked the V.R. Mahal, 100 Feet Road and thereby causing public disturbance and free movement of traffic and there are specific allegations as against the petitioners to proceed with the trial. Further, the petitioners committed offences under Sections 143 & 353 IPC. During investigation, the respondent police visited the scene of occurrence, recorded the statements of witness present in the scene of occurrence, prepared Observation Mahazar, Rough Sketch, collected materials and filed Charge Sheet listing L.W.1 to L.W.12, documents and



materials. 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 & 353 of IPC as against the petitioners. 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. Further, the complaint does not even state as to how the protesters formed a group, assembled and held protest, the materials does not satisfy the requirements of Section 143 and 353 of IPC.

7. As regards other offences involving public nuisance and wrongful restrain, no public lodged any complaint against the petitioners that they were wrongfully restrained, causing public disturbance and nuisance. The de facto complainant is the Sub Inspector of Police attached with the respondent. Further no materials to show that there was any obstruction, restraintment for free movement of public having occasion to usage of public road. The witness listed are mostly police personnels, the other witnesses prosecuted are shop vendors, who necessarily need the support of Police. In this case, the occurrence took place on 11.11.2019 and F.I.R. registered on that day and it is almost 3 years now. The maximum punishment for the offences charged are six months imprisonment and fine. Therefore, continuation of further proceedings will serve no purpose. Hence, the final report cannot be sustained and it is liable to be quashed.

8. Accordingly, the proceedings in C.C No.4225 of 2020 pending on the file of the Metropolitan Magistrate-XIII, Egmore, Chennai, is quashed and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rkp



To

1. The Inspector of Police,
V-5, Thirumangalam Police station,
Chennai.

2. The XIII Metropolitan Magistrate,
Egmore, Chennai.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.M.Ganesh Babu, Advocate, S.R.No.3158

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KSM(CO)
CT 08/02/2022