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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.23910 of 2021 and
Crl.M.P.No.13167 of 2021

- 1.G.Anbu Kabali
- 2.G.Arockia Selvam
- 3.S.Neasamani
- 4.Busanraj
- 5.Michael Augustin
- 6.K.Sekar
- 7.Jaiseelan
- 8.Muniammal
- 9.Paipammal
- 10.Anjuthameri
- 11.Eswari
- 12.Dhanalakshmi
- 13.Jothi
- 14.Kasiammal

... Petitioners

Versus

1. The State by,
The Inspector of Police,
El Mylapore Police Station,
Chennai - 600 004.
2. Mr.John Vijayakumar
Sub-Inspector of Police,
E-1, Mylapore Police Station,
Chennai - 600 004.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings in C.C.No.5919/2017, pending before the learned XVIII Metropolitan Magistrate Court, Saidapet, Chennai.

For Petitioners : Mr.C.Ganesh Pandian

For Respondents : Mr.N.Damodaran
Additional Public Prosecutor



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ORDER

The petitioners, who are accused in C.C.No.5919 of 2017, for offences under Sections 143 and 188 read with Section 149 IPC, have filed the Quash Petition.

2.The gist of the case is that on 13.03.2017, at about 09.30 a.m., the petitioners, who are local residents of Mylapore, had gone to a fair price shop to procure ration items. The salesman of the shop informed them that most of the ration items were in short supply. Thereafter, the petitioners said to have assembled near the said fair price shop, raised slogans against the Government for not properly supplying the ration items. The second respondent Police, who was on patrol duty, found the unlawful assembly and the protest held without permission, registered a case against the petitioners in Crime No.450 of 2017. Thereafter, on completion of investigation, the respondent/Police filed a final report before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.5919 of 2017, against which, the present Quash Petition.

3.The contention of the petitioners is that they are the local residents of Mylapore, who had gone to the fair price shop to procure ration items. The salesman of the shop denied ration items to them, informing them that most of the items, stocks are not available. The petitioners very much depend upon the ration items for their food and survival. Since it was not the first occasion, but on several occasions, they have denied ration items, they spontaneously raised objections for the same and questioned the salesman therein. The respondent Police misconstrued it as a protest without permission and registered a case against the petitioners. It is further submitted that in this case, all the witnesses are Police Personnels and no public cited as an eyewitness. The pendency of the above case caused a black mark to their names and further, if the petitioners seek any employment, this case would be pointed against them. Hence, they prayed for quashing of the case.

4.The learned Additional Public Prosecutor appearing for the respondents Police submitted that the second respondent, who was on a patrol duty, found the unlawful assembly of the petitioners in front of the fair price shop and the slogans raised by them against the Government, and also threat made by them against the fair price shop employees and others and they caused public annoyance and disturbance. Hence, the respondent/Police registered case against them. After recording statement of witnesses, the first respondent filed a charge sheet in this case. Hence, he opposed the quash petition.



5. Considering the rival submissions and on perusal of the materials this Court finds that the petitioners have only raised their objection with regard to the shortage and non supply of ration articles to the general public. The purpose for having a ration shop is to make available the essential items for the needy persons, at affordable price. The pulses and the palm oil are the daily cooking needs of the general public and for the shortage and non supply, they have shown their displeasure. Further, the petitioners are the people living below the poverty line and they are very much depending on the ration articles for their livelihood and survival. It is for the civil supply authorities to ensure that ration articles are properly stocked and distributed to the needy people. In this case, for non-supply of ration items, the petitioners have raised their objection and nothing more which cannot be termed as unlawful assembly. Raising slogans against the Government itself would not amount to commission of cognizable offence, whereas it is a fundamental right guaranteed under the Constitution of India.

6. Admittedly in this case, the occurrence had taken place in the public place and in fact, no public or independent witnesses were examined by the prosecution, which causes serious doubt on the veracity of the complaint. The petitioners only held a peaceful protest which is a democratic right and it cannot be faulted with. Further, this Court in the case of "Jeevanandham and others Vs. State Rep. by Inspector of Police and another reported in (2018) 2 LW CrL. 606" had clearly held that the police officials are not empowered to register a case under Section 188 IPC and the same is barred under Section 195 Cr.P.C. There is no material to show that there was any promulgation of any prohibitory order which was communicated to the public and there was any disobedience by the petitioners. Further, in consequence to the protest, the prosecution failed to show whether any injuries caused to any one. Thus, the respondent Police did not follow the guidelines issued by this Court in Jeevanandham (Cited Supra). In several cases, this Court quashed the proceedings against the accused/protesters on the similar ground.

7. In the result, the impugned C.C.No.5919 of 2017, on the file of the XVIII Metropolitan Magistrate, Saidapet, Chennai, is quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar



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To

1.The XVIII Metropolitan Magistrate,
Saidapet, Chennai.

2.The Inspector of Police,
E1 Mylapore Police Station,
Chennai - 600 004.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.C.Ganesh Pandian, Advocate SR. No. 3855

CRL.O.P.No.23910 of 2021

MT (CO)

PR (21/06/2022)