



WEB COPY

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.24451 of 2021

and

CRL.M.P.Nos.13472 & 13473 of 2021

1. K.Veeramani
2. Anburaj
3. Inbakani
4. Paneerselvam
5. S.Prince Ennarasu Periyar
6. Pulavar Kavignar

...Petitioners

Versus

State Rep.by the
Inspector of Police
Egmore Police Station,
Chennai - 06
(Crime No.41 of 2019)

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to C.C.No.1159 of 2021 on the file of XIV Metropolitan Magistrate, Egmore and quash the same.

For Petitioners : Mr.S.Kumara Devan

For Respondent : Mr.E.Raj Thilak
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.1159 of 2021 on the file of XIV Metropolitan Magistrate, Egmore and quash the same as illegal.

2. The case of the prosecution is that the de-facto complainant preferred a complaint before the respondent Police stating that he is working as an Inspector in the respondent Police Station. While so, on 07.02.2019 at about 10.30 a.m., during the patrol at Egmore Railway Station, North, near statue of Maniyammaiyar, under the head of the first petitioner, the other petitioners and 107 members assembled unlawfully, without obtaining any prior permission from the Government to protest and caused nuisance to the public. hence, the respondent lodged a complaint against them and an



FIR came to be registered in Crime No.41 of 2019 for the offences under Sections 143, 290 and 285 of I.P.C and 41 of Tamil Nadu Police Act. Further, the respondent-Police filed a Charge Sheet in C.C.No.1159 of 2021 on the file of the Hon'ble XIV Metropolitan Magistrate Court, Egmore against the petitioners for the alleged offences under Sections 143 of I.P.C, 41 of Tamil Nadu City Police Act and 7(1)(a) of Criminal Law Amendment Act, 2005.

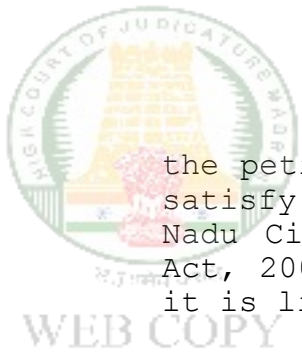
3. The learned counsel appearing for the petitioner submitted that the Hon'ble Apex Court has held that the "Informant should not be an Investigation Officer for the reason that the fair investigation is not done by the Investigation Officer. He further submitted that the Hon'ble Apex Court and various judgments of various High Court categorically held that a fair investigation is very foundation of fair trial. Hence, a fair trial to an accused is a constitutional right guaranteed under Article 21 of Constitution of India. Further, he submitted that the petitioners or any other members had never involved in any unlawful assembly and there is no evidence that the petitioners or others restrained anybody. The petitioners have conducted the protest in a peaceful manner and have not caused any nuisance to the public. When there was lot of members involved in the protest, the respondent police had registered this case, as against the petitioners and others. Therefore, he sought for quashing the proceeding.

4. Per contra, the learned Additional Public Prosecutor submitted that the petitioners along with others assembled in large numbers and there are specific allegations as against the petitioners 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 of I.P.C, 41 of Tamil Nadu City Police Act and 7(1)(a) of Criminal Law Amendment Act, 2005. Except the official witnesses, no public witness has spoken about the occurrence and no public witness was examined to substantiate the charges against the petitioner.

7. In the case on hand, the First Information Report has been registered by the respondent police for the offences under Sections 143 of I.P.C, 41 of Tamil Nadu City Police Act and 7(1)(a) of Criminal Law Amendment Act, 2005. Further, the complaint does not even state as to how the protest formed by



the petitioners and others is an unlawful protest and does not satisfy the requirements of Sections 143 of I.P.C, 41 of Tamil Nadu City Police Act and 7(1)(a) of Criminal Law Amendment Act, 2005. Therefore, the final report cannot be sustained and it is liable to be quashed.

8. Accordingly, the proceedings in C.C.No.1159 of 2021 on the file of the XIV Metropolitan Magistrate, Egmore is quashed as against the petitioner and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1.The XIV Metropolitan Magistrate,
Egmore, Chennai.

2.-do- through The Chief Metropolitan Magistrate,
Egmore, Chennai.

3.The Inspector of Police
Egmore Police Station,
Chennai - 06
(Crime No.41 of 2019)

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Kumara Devan, Advocate SR. No. 4512

CRL.O.P.No.24451 of 2021
and

CRL.M.P.Nos.13472 & 13473 of 2021

MT (CO)
PR (09/02/2022)