



CRL.O.P.No.25400 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2022

CORAM:

THE HON'BLE Ms.JUSTICE R.N.MANJULA

Crl. O.P. No.25400 of 2021
and Crl.M.P. No.14075 of 2021

- 1.K.Sivakumar
- 2.K.Muthuvel
- 3.T.Ananda Kumar
4. N.Sakthivel
5. M.Sengottaiyan
6. V.Nataraj Gounder

.. Petitioners

Versus

- 1.The State represented by
The Inspector of Police,
Malayampalayam Police Station,
Erode District.
(Crime No.183 of 2018)

2. Padmanaban

... Respondents

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to in C.C. No.24 of 2020 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi, Erode District and quash the same by allowing this Criminal Original Petition.



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For Petitioners : Mr. R.Shase
for Mr.M.Guruprasad
For Respondent-1: Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records relating to C.C. No.24 of 2020 on the file of the District Munsif-cum-Judicial Magistrate, Kodumudi, Erode District and quash the same

2. The case of the prosecution is that during the erection of Tower for the Power Transmission Project of the Power Grid Corporation of India Limited (hereinafter referred to as 'PGCIL'), the petitioner stopped the work, abused the authorities with foul words and damaged the “Peg Mark” Wooden Reaper worth Rs.200/- wood in S.F. No.190/2-A which is the land belonging to one Sengottayan in P.K.Velampalayam, 014 Punjaikalamangalam “A” Village, Modakurichi Taluk, Erode District.



3. On a complaint given by the second respondent / defacto complainant who is an Village Administrative Officer, a case has been registered against the petitioners in Cr. No.183 of 2018 under Sections 147, 294(b), 341, 353, 434, 506(1) IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. Charge sheet has also been filed by the first respondent police as against the petitioners and it is taken on file in C.C. No.24 of 2020.

4. The learned counsel for the petitioners submitted that the petitioners are the land owners in whose land the project of 'PGCIL' is being carried out; the above project is being implemented as laying Overhead Lines which run through the Giant Towers to be installed on the lands of the petitioners and other similar farmers; despite the above project infringes the rights of the land owners in various ways, permission was not obtained and compensation was also not paid to the farmers; the authorities cannot enter into the lands of the farmers without their permission and without acquiring any right of way on the lands of the owners; the authorities did not produce any order from any authorities with regard to the above project; the innocent



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land owners cannot remain silent eventhough the trespassers are Government authorities; without any basis, the case has been registered against the petitioners; similar such cases in Crl.O.P. Nos.6173 & 5951 of 2021 have also been registered against other farmers and the same have been quashed by the Court on the submission made by the farmers; hence this case which has also been registered against the petitioners without any basis should also be quashed.

5. Heard Mr.R.Shase, the learned counsel for the petitioner and Mr.A.Damodaran, the learned Additional Public Prosecutor appearing for the first petitioner.

6. The Government authorities who were said to have entered into the lands of the petitioners ought to have given prior notice to the land owners and sought their permission to enter into their lands to carry out the project related works. Even if the license obtained is a statutory license as defined under Indian Telegraph Act, 1985, the licensee cannot enter into any owner's land without their permission. The petitioners and similar such farmers were



not explained properly about the project by the authorities. It is needless to state that in villages, when someone enters into the lands of any farmer without any notice / permission / explanation, the farmers will unite and question the trespassers. Just because the farmers joined together to get explanation from the authorities about something which they did not know, it cannot be stated that they have formed an unlawful assembly for rioting.

7. The penal provisions under which the case has been booked against the petitioners are without any basis and without understanding the reason for the commotion.

8. It is relevant to note the definition of Unlawful Assembly:

“ Unlawful Assembly-

An assembly of five or more persons is designated an unlawful assembly?, if the common object of the persons composing that assembly is -

(i) to overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or



(ii) to resist the execution of any law, or of any legal process;

or

(iii) to commit any mischief or criminal trespass, or other offence; or

(iv) by means of criminal force, or show of criminal force, to any person to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

(v) by means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.-”

9. Only when the assembly fit into any of the above circumstances, it could be construed as unlawful. The materials collected by the prosecution do not show that the petitioners have used any criminal force to commit any mischief, crime or any offence or tried to take possession of the property which is in possession of enjoyment of others or rights.

10. It is not the case of the prosecution that the petitioners have assaulted or abused the authorities with any specific obscene words at the time of occurrence. An owner of a land has got the right to restrict anyone



who enters into his lands in an unauthenticated manner. Though several penal provisions of the code like 147, 294(b), 341, 353, 434, 506(1) IPC and Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992, have been invoked for registering the FIR against the farmers, the real facts were not attempted to be brought to light.

11. To attract the offence under Section 294(b) of IPC, there must be uttering of words to affect the person who lodged the complaint. In this regard it is relevant to extract the Section 294(b) of IPC, as follows :-

"294. Obscene acts and songs — Whoever, to the annoyance of others— (a) does any obscene act in any public place, or (b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

12. Admittedly, there is absolutely no words uttered by the petitioners so as to constitute an offence under Section 294(b) of IPC. Further the records do not show that on hearing the obscene words, the complainant / witnesses felt annoyed. No one has stated that the obscene words have to be



felt annoyed. In the absence of any materials to show that the words uttered by the petitioners annoyed others, it cannot be said that the ingredients of the offence under Section 294(b) of IPC is made out.

13. The ingredients of each of the provisions should be fulfilled for invoking the same. The provisions cannot be implied on a mechanical basis in order to cause threat to the farmers who raise their opposition. In fact in the earlier similar cases the proceedings were quashed at the FIR stage itself. Even though charge sheet has been filed in this case, the case situation is in no way different from the earlier ones. Since the intention of the farmers is to join together and question the authorities and get response in the given circumstances, I feel that charge sheet is liable to be quashed. Though the stages of the cases are different, the basis on which the earlier proceedings were taken against the other farmers are similar and hence I feel that the petitioners should also be granted with the same benefit by quashing the proceedings.



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14. Accordingly the Criminal Original Petition is allowed and the case in C.C. No.24 of 2020 on the file of the District Munsif cum Judicial Magistrate, Kodumudi, Erode District is hereby quashed. Consequently, connected miscellaneous petition is closed.

05.09.2022

Index: Yes/No
Internet: Yes/No
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To:

- 1.The Inspector of Police,
Malayampalayam Police Station,
Erode District.
- 2.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

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