



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

Crl.O.P.Nos.25575 to 25577 of 2017
and
Crl.M.P.Nos.14718 to 14720 of 2017

G.Thirumurugan ... Petitioner in all petitions

Vs.

State represented by
The Inspector of Police
CBCID, No.24, Pantheon Road,
Komaleeswaranpet,
Egmore,
Chennai - 600 008.

... Respondent in all petitions

[Impleaded and amended as per orders of this Court in
Crl.M.P.Nos.5137 to 5139 of 2020
in Crl.O.P.Nos.25575 to 25577 of 2017,
dated 24.11.2021]

Prayer : Criminal Original Petitions in Crl.O.P.Nos.25575 to 25577 of 2017 filed under Section 482 Cr.P.C., to call for the records in Crime Nos.19, 20 and 21 of 2019 respectively on the file of the respondent police and quash the same.

[Prayer amended as per order of this Court in Crl.M.P.Nos.12110 to 12112 of 2021 in Crl.O.P.Nos.25575 to 25577 of 2017, dated 24.11.2021]

For Petitioner: Mr.N.R.Elango
Senior Counsel
for Mr.G.R.Deepak
in all petitions

For Respondent: Mr.R.Kishore Kumar
Government Advocate (Crl. Side)
in all petitions



COMMON ORDER

These Criminal Original Petitions have been filed to quash the three FIRs, viz., Crime No.440 of 2017, which was originally filed on the file of the Royapettah Police Station, for the offences under Sections 143, 188 and 353 IPC, on 21.09.2017 and subsequently altered to Sections 143, 188, 353, 124A and 153 IPC, which is subject matter of Crl.O.P.No.25575 of 2017; Crime No.1895 of 2017, which was originally filed on the file of the Puzhal Police Station, for the offences under Sections 120-B, 145, 151, 153-A and 188 IPC, on 30.09.2017 and subsequently altered to Sections 120-B IPC r/w. 145, 151, 153-A, 188 and 124A IPC, which is subject matter of Crl.O.P.No.25576 of 2017; Crime No.1896 of 2017, which was originally filed on the file of the Puzhal Police Station, for the offences under Sections 120-B, 145, 151, 153-A, 188 and 179 IPC, on 30.09.2017, and subsequently altered to Sections 120-B IPC r/w. Sections 145, 151, 153-A, 188, 124A IPC and 179 of Motor Vehicles Act, which is subject matter in Crl.O.P.No.25777 of 2017.

2.The allegations in all these three originally filed FIRs are that the petitioner is the leader of a Movement called May-17 Movement and while he was released from Central Jail after his detention was set aside, people gathered and garlanded him and at that time, he is alleged to have raised slogans against the Government and Police and he proceeded to garland Periyar statue, thereby, the above FIRs came to be registered as against the petitioner, originally for the offences under Sections 143, 188 and 353 IPC in Crime No.440 of 2017, Sections 120-B, 145, 151, 153-A and 188 IPC in Crime No.1895 of 2017 and Sections 120-B, 145, 151, 153-A, 188 and 179 IPC in Crime No.1896 of 2017 and later they were altered to Sections 143, 188, 353, 124A and 153 IPC in Crime No.440 of 2017; Sections 120-B IPC r/w. 145, 151, 153-A, 188 and 124A IPC in Crime No.1895 of 2017 and Sections 120-B IPC r/w. Sections 145, 151, 153-A, 188, 124A IPC and 179 of Motor Vehicles Act in Crime No.1896 of 2017. Further, the petitioner is alleged to have made statements that they are prepared to fight against kaavi-terrorism and similar terrorism exercised by the previous Government and also warned the ruling party, thereby, Section 124A IPC was invoked. In the second FIR, he is alleged to have made statements warning the Government that youth students' force will turn the Indian country and he is also stated to have made statements that the State Government is acting as a benami to the Central Government and it is a shame to Tamil Nadu, thereby, Section 124A IPC was slapped against the petitioner. In the 3rd FIR also, similar



allegations are made along with yet another statement that, till a separate Tamil Nadu is achieved, he will fight, thereby, Section 124A IPC was invoked against the petitioner.

3.The learned Senior Counsel appearing for the petitioner submitted that all the three FIRs have been filed against the petitioner only for political reasons. He further submitted that the petitioner is the co-ordinator of May-17 Movement and he made certain slogans in a democratic way while he was released from jail after his detention under Act 14 of 1982 was quashed. The learned Senior Counsel submitted that the petitioner has expressed only Dravidian principles of self-respect, which has been given a criminal colour and Section 124A IPC has been invoked as against the petitioner. He further contended that none of the offences as alleged in the FIRs has been committed by the petitioner and hence, he sought to quash the FIRs.

4.The learned Government Advocate (Crl. Side) appearing for the respondent raised no serious objections to the submissions made by the learned Senior Counsel for the petitioner.

5.Heard the learned counsel on either side and perused the entire materials available on record.

6.Normally, when prima facie allegations are found in the FIR, which require investigation, the Court will not interfere with the investigation. At the same time, when the FIR is bereft of details and is a result of political motive or when the allegations are pressed into service only in order to implicate the person, the Court can very well go into the veracity of such allegations and quash the proceedings. As stated above, the petitioner is the co-ordinator of May-17 Movement and while he was released from prison, his followers gathered and garlanded him and thereafter, the petitioner proceeded to garland Periyar statue. Therefore, such a gathering, which took place in a spontaneous manner, cannot be construed to be an unlawful assembly. Further, so far the offence under Section 188 IPC is concerned, no details, whatsoever, have been furnished by the prosecution that there was any promulgation order in force at the relevant point of time which was violated. Originally, the FIRs were filed for the aforesaid offences and subsequently, the same were altered after few months with a delay, with an additional charge under Section 124A IPC as against the petitioner.



9. It has been held by the Constitution Bench of the Hon'ble Apex Court in Kedar Nath Singh v. State of Bihar reported in AIR 1962 SC 955, as follows :

"26. ... As already pointed out, the explanations appended to the main body of the section make it clear that criticism of public measures or comment on Government action, however strongly worded, would be within reasonable limits and would be consistent with the fundamental right of freedom of speech and expression. It is only when the words, written or spoken, etc. which have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the law steps in to prevent such activities in the interest of public order."

10. The originally filed FIRs do not indicate any such statements made by the petitioner and inclusion of such statements by the police officials at a later point of time, attracting stringent penal law as against the petitioner, who had merely expressed his views against the functioning of the Government in certain aspects, also gives an inference that they have been included with deliberation. Moreover, when the Government side has also not raised any serious objections to these petitions, continuing the prosecution as against the petitioner, is nothing but a futile exercise and no purpose would be served. Therefore, this Court is inclined to quash the proceedings in all the three FIRs as against the petitioner. It is to be noted that the investigation has now been transferred to CBCID, Chennai, and the FIRs have now been renumbered as Crime Nos.19, 20 and 21 of 2019 on the file of the respondent Police.

11. Therefore, the proceedings in Crime Nos.19, 20 and 21 of 2019 on the file of the respondent Police, are quashed and these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR



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To

WEB COPY

1.The Inspector of Police,
CBCID, No.24, Pantheon Road,
Komaleeswaranpet,
Egmore, Chennai - 600 008.

2.The Public Prosecutor,
High Court, Madras.

Crl.O.P.Nos.25575 to 25577 of 2017

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srg 10/02/2022