



WEB COPY



Crl.O.P.No.29386 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2022

CORAM:

THE HONOURABLE MS JUSTICE R.N.MANJULA

Crl.O.P.No.29386 of 2022

Arunan @ Durai Arunan

... Petitioner

Vs.

1. State Rep. by
The Inspector of Police,
Ariyalur Police Station,
Ariyalur District.
Cr. No.1102 of 2020

2. Murugesan

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to Cr. No.1102 of 2020 on the file of the Inspector of Police, Ariyalur Police Station, Ariyalur District and to quash the same in so far the petitioner is concerned.

For Petitioner : Mr.K.C.Karl Marx

For Respondent-1 : Mr.E.Raj Thilak,
Additional Public Prosecutor



Crl.O.P.No.29386 of 2022

ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records pertaining to Cr. No.1102 of 2020 on the file of the Inspector of Police, Ariyalur Police Station, Ariyalur District and to quash the same in so far the petitioner is concerned.

2. The petitioner is the accused in Crime No.1102 of 2020. A case has been registered by the first respondent against the petitioner on the allegation that the petitioner along with others have participated in a demonstration without prior permission for expressing their anguish that the relief works have not reached the Covid affected patients. Subsequently, FIR has been registered in Crime No.1102 of 2020 on 19.09.2020 for the offences under Sections 143, 269 & 271 IPC.

3. The learned counsel for the petitioner submitted that the role of the petitioner was not mentioned in the FIR and there are no ingredients to show that the petitioner had committed the offences under Sections 269 and 271 of IPC; the registration of the FIR is in violation of Section 195(1)(a)(i)



of Cr.P.C.; the allegations made in the FIR does not disclose any cognizable offence; there is no allegation that the accused was affected by Corona Virus and so, his assembly had endangered the human life and safety; the right of the petitioner to assemble peacefully without any arms in order to show his dissenting voice cannot be construed as a criminal activity; hence, this Court has to invoke its provisional power and quash the proceedings.

4. The learned Additional Public Prosecutor submitted that on 19.09.2020 at 11.00 a.m, the respondent police got an information that the accused had assembled illegally; though the prohibitory order under Section 144 IPC was in force, the petitioner and others were assembled and caused trouble to the public; though they were warned by the police, they did not disperse and continue to cause obstruction to the traffic and disturbance to the general public.

5. On the face of the FIR itself, it is not seen that the petitioner was affected with Corona Virus and that he along with others assembled together for the purpose of spreading the disease to others. So, without any



such ground materials, there is no necessity to invoke the penal provisions of the 269 & 271 IPC. Further, no specific overtact is seen on the part of the petitioner that he was doing certain acts which would endanger the life and personal safety of others.

6. The unlawful assembly is defined under Section 141 IPC as under:

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”.



WEB C

7. A reading of the FIR does not disclose that the petitioner had assembled with any common object of committing the acts enunciated under Section 141 IPC. There is no allegation that the petitioner had committed any act of violence. Though the prohibitory order under Section 144 of IPC might be in force, there cannot be any reason to charge the petitioner under various charges for having been present somewhere without any unlawful object. If several people other than the petitioner were present in the place of occurrence, it will not be easy for a single officer to manage the crowd and he would have sought the help of the senior police officer to get more police force. There was no commotion in the crowd and they did not endanger the life of any person or property. The entire materials produced before this Court are found to be insufficient to make out the various offences as stated above against the accused.

8. In the case of *State of Haryana and others Vs. Bhajan Lal and Others* reported in *1992 Supp (1) Supreme Court Cases 335*, the Hon'ble Supreme Court has held that when the FIR itself does not disclose any cognizable offence which would justify an investigation, there is no



necessity for investigation. In that case, the Courts can very well invoke the powers under Section 482 of Cr.P.C to quash the FIR. In this regard, it is relevant to extract the special portions of the above judgment:

“

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the Institution and continuance of the



CrI.O.P.No.29386 of 2022

WEB COPY

proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge”.

9. It is reliably learnt that the Government has taken proactive steps to drop similar such cases registered during the pandemic, in the public interest. In such circumstances, I feel that no fruitful purpose will be served in allowing the investigation to be done in a case which is bald or contains trivial allegation. Hence, I feel it is appropriate to quash the proceedings by invoking the powers of this Court under Section 482 of Cr.P.C.

10. Accordingly, this Criminal Original Petition stands allowed and the FIR in Crime No.1102 of 2020 on the file of the first respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

30.11.2022

Index:Yes/No
Speaking Order / Non speaking order
bkn

7/8



WEB COPY



Crl.O.P.No.29386 of 2022

R.N.MANJULA, J.,

bkn

To

1. The Inspector of Police,
Ariyalur Police Station,
Ariyalur District
2. The Public Prosecutor,
Madras High Court,
Chennai.

Crl.O.P.No.29386 of 2022

30.11.2022