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CRL.O.P.No.31536 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM:

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

Crl.O.P.No.31536 of 2019

and

Crl.MP.No.17219 of 2019

S.Kasirajan

..

Petitioner/Accused 3

Versus

1. The State Rep.by

Inspector Of Police B-2

Esplanade Police

Station Chennai.(Cr.no.186/15).

... 1st Respondent

2. Muthusamy Pro

Aapkaan Tta.jv Chennai Metro Rail Project

High Court Campus Chennai-104.

... 2nd Respondent
/Defacto complainant.

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to call for the records relating to the CC.No.2441 of 2017 on the file of VII Metropolitan Magistrate Court, George town, Chennai and to quash the same.

For Petitioner	:	Mr.C.Prabakaran
For Respondent-1	:	Mr.A.Gopinath Government Advocate
For Respondent-2	:	No appearance



ORDER

This Criminal original petition has been filed to quash the CC.No.2441 of 2017 on the file of VII Metropolitan Magistrate Court, George town, Chennai.

2. The petitioner is arrayed as an accused No.3 in the First Information Report in Cr.No.186/2015 for the offences under Sections 143, 147, 294(b), 448, 353 and 506(i) IPC.

3.The case of the prosecution is that the petitioner and others have demonstrated a protest at 11.00 am on 04.02.2015 near Kuralakam and in front of the Law College gate by threatening the second respondent and others and preventing them from executing their metro project work.

4.Heard the submissions made by the learned counsel on either side and perused the materials available on record.

5.The learned counsel for the petitioner submitted that the petitioner and others are Law College Students and they had demonstrated a protest against the proposal to shift the law college from Parrys corner to the outskirts of the Chennai and further the second respondent/ defacto complainant and his workers are not public servants within the meaning of Sec.21 IPC. No required ingredients are seen to be present to make out an



offence under Sections 143, 147, 294(b), 448, 353 and 506(i) IPC against the petitioner. It is further submitted that totally six cases have been registered on the same allegations and for the protest demonstrated by the students. Though five cases have been closed, in this case, charge sheet has been filed.

6.The learned Government Advocate appearing for the first respondent police submitted that the petitioner along with 15 others trespassed into the work premises of the second respondent who were involved in implementing the metro project and prevented them from executing their work and they also threatened the workers and caused an anomalous situation.

7.The records would show that the petitioner and others are the students of the Ambedkar Govt Law college, Chennai, when the government issued an order to shift the law college from Parrys corner to Pattaiaip Perumbudur at Thiruvallur district and Pudhupakkam at Kanchipuram District. The second respondent is a Public Relation Officer of Aapkaan Tta.JVC, Chennai Metro Rail Project.

8.As rightly submitted by the learned counsel for the petitioner the



said person or his workers will not fall under the definition of Public Servants under Sec.21 of the Indian Penal Code which elaborates 'who is a public servant'. Section 21 IPC reads as under:

“21. Public Servant

The words "public servant" denote a person falling under any of the descriptions hereinafter following namely:-

¹[* ****]

Second.(Every Commissioned Officer in the Military, ²[Naval or Air] Forces ³[of India];

⁴[Third.(Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory function;]

Fourth.(Every officer of a Court of justice ⁵[(including a liquidator, receiver or commissioner)] whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court, and every person specially authorized by a Court of Justice to perform any of such duties.

Fifth.(Every juryman, assessor, or member of a panchayat assisting a Court of justice or public servant;

Sixth.(Every arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of justice, or by any other competent public authority;

Seventh.(Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eight.(Every officer of ⁶[the Government] whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety or convenience;

Ninth.(Every officer whose duty it is, as such officer, to take, receive, keep or extend any property on behalf of ⁶[the Government], or to make any survey, assessment or contract on behalf of the ⁶[the Government], or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of ⁷[the Government], or to make, authenticate or keep any document relating to the pecuniary interests of ⁶[the Government], or to prevent the infraction of any law for the protection of the pecuniary interests of ⁶[the Government] ⁷[***];

Tenth.(Every officer whose duty it is, as such officer, to take, receive, keep or expend any property, to make any survey or assessment or to levy any rate or tax for any secular common purpose of any village, town or district, or to make, authenticate or keep any document for the



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ascertaining of the rights of the people of any village, town or district;

⁸[Eleventh.(Every persons who holds any office in virtue of which he is empowered to prepare, publish maintain or revise an electoral roll or to conduct an election or part of an election;]

⁹[twelfth.(Every person(

(a) In the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) In the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956.)”

9. As the petitioner will not fall under the above definition, he can not be considered as a 'public servant'. The petitioner and other students on being dissatisfied with the proposal of shifting their college had gathered to show their protest. Even according to the defacto complainant the students did not involve in any violence of assaulting anyone or showing criminal force. There is no specific allegations by any of the witnesses against the students that they had abused any person in particular. Nothing on record would show that any disciplinary action has been taken on the students by the college authorities for having indulged in violence or misconduct. The students have gathered croup just to demonstrate a protest against the proposal to shift the college. In view of that the passer-by and the workers of the metro rail project would have got frightened by themselves.

10. When the other cases registered in this regard have been closed, this case could have also been closed. Since the allegations made in the FIR



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appear to be generalized statements, I do not find any serious ingredients to make out a case and subject the petitioner and other students to undergo ordeal of trial.

11. The petitioners and others are not habitual offenders and they are just students. Considering their future and also circumstances in which demonstration has been observed, I feel it is appropriate to invoke the powers of this Court u/s.482 Cr.P.C to quash the proceedings in CC.2441/2017 pending on the file of the learned VII Metropolitan Magistrate Court, George Town, Chennai. The benefit in this order shall stand extended to the other accused who are also students and stand on the same footing.

12.In the result, this Criminal Original Petition stands **allowed**. The proceedings in CC.2441/2017 pending on the file of the learned VII Metropolitan Magistrate Court, George Town, Chennai, is quashed as against the petitioner. Consequently, connected miscellaneous petition is closed.

21.12.2022



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Index: Yes/No
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To:

1.TheVII Metropolitan Magistrate Court,
George town, Chennai

2.The Inspector Of Police B-2
Esplanade Police
Station Chennai.

3.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA, J.,

jrs

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