



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1641 of 2022
and
Crl.M.P. (MD)No.1187 of 2022

Heerajan ... Petitioner/Accused No.7
Vs.

- 1.The State Rep. by
The Inspector of Police,
South Gate Police Station,
Madurai District.
(In Crime No.396 of 2021) ...Respondent No.1/Complainant
- 2.Murugesan,
Sub-Inspector of Police-3292,
South Gate Police Station,
Madurai District. ... Respondent No.2/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to the impugned First Information Report in Crime No.396 of 2021 on the file of the first respondent police station and quash the same as illegal as against the petitioner/Accused No.7 is concerned.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (Crl. Side) (for R1)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the first respondent.

2.The petitioner is figuring as Accused No.7 in Crime No.396 of 2021 registered on the file of the Inspector of Police, South Gate Police Station, Madurai.

3.The case of the prosecution is that on 27.09.2021, in violation of the prohibitory orders and lock down restrictions, the
<https://hcservices.ecourts.gov.in/hcservices/>



accused assembled in public and held demonstration. That led to registration of the case for the offences under Sections 143, 341, 291, 269 of IPC and Section 3 of the Epidemic Diseases Act, 1897.

4.As rightly pointed out by the learned counsel for the petitioner, the First Information Report could not have been straight away registered for the offence under Section 3 of the Epidemic Diseases Act, 1897, because the procedure prescribed for registering an FIR for the offence under Section 188 of IPC will have to be followed. In this case, such a procedure was not followed. The accused after all wanted to voice their protest against the promulgation of the farm laws. On a democratic society, members of political parties can definitely do so. Such an assembly cannot be called as an unlawful assembly. The petitioner was not suffering from any infectious disease. Nor he contributed to its spread. Therefore, Section 269 of IPC also could not have been invoked.

5.It is not the case of the prosecution that any order passed by the Executive Magistrate has been breached. Therefore, Section 291 of IPC also could not have been invoked. Looked at from any angle, the continuation of the impugned prosecution is not warranted. This is more so because, the accused did not indulge in any act of violence. No adverse consequence ensued. The impugned FIR is quashed. This Criminal Original Petition is allowed. The benefit of this order will enure in favour of the non-petitioning accused also. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

sji

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Inspector of Police,
South Gate Police Station,
Madurai District.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.R.KARUNANIDHI, Advocate (SR-3261[F] dated 31/01/2022)

CrI.O.P (MD)No.1641 of 2022
31.01.2022

RK(17/02/2022) 3P 4C