



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.02.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P(MD)No.1751 of 2022
and
CrI.M.P. (MD)No.1270 of 2022

Fathima Babu @ Fathima ... Petitioner/Accused No.1
Vs.

1.The State rep. by
The Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District. ... Respondent No.1/
Complainant

2.G.Udhayalakshmi,
Sub Inspector of Police,
Thoothukudi South Police Station,
Thoothukudi District. ... Respondent No.2/
Defacto Complainant

Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the entire records pertaining to the impugned First Information Report in Crime No.497 of 2021 on the file of the respondent No.1 police station and quash the same as against the petitioner concerned/Accused No.1

For Petitioner : Mr.Henri Tiphagne

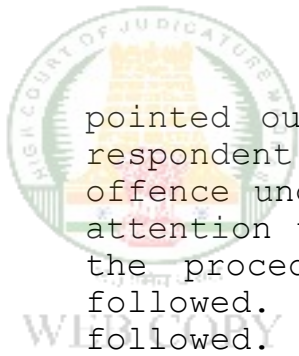
For Respondents : Mr.M.Sakthi Kumar,
Govt. Advocate (CrI. Side).

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) for the respondents.

2.The petitioner is figuring as first accused in Crime No.497 of 2021 registered on the file of the first respondent for the offences under Sections 143 and 269 of IPC and Section 3 of Epidemic Diseases Act, 1897.

3.The case of the prosecution is that in violation of the lockdown restrictions and without getting any prior permission, the meeting in question was conducted in a public place. As rightly



pointed out by the learned counsel for the petitioner, the first respondent could not have straightaway registered an FIR for the offence under Section 3 of Epidemic Diseases Act, 1897. He drew my attention to the fact that for registering an FIR for this offence, the procedure set out in Section 188 of IPC will have to be followed. In this case admittedly such a procedure was not followed. That apart, it is not the case of the prosecution that any of the accused was suffering from any infectious disease or that they contributed to its spread. Hence, Section 269 of IPC also could not have been invoked. The accused had assembled to pay homage to Fr.Stan Swamy. This by no stretch of imagination can be called as an unlawful object. It is true that Fr.Stan Swamy was being prosecuted under the Unlawful Activities (Prevention) Act, 1967, but then, in the eyes of many, he was seen as a human rights activist who fought for tribal people. Therefore, the petitioner along with other accused were definitely justified in holding a memorial meeting. The registration of the impugned FIR is bad in law. It stands quashed and the 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 (AD I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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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,
Thoothukudi South Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P (MD) No.1751 of 2022
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