



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P(MD)No.1600 of 2022

and

Crl.M.P(MD)No.1149 of 2022

WEB COPY

T.S.Samsudeen

... Petitioner/Accused No.23

Vs.

1.The State represented by
The Inspector of Police,
Kadayanallur Police Station,
Tirunelveli.
(Presently Tenkasi District)
(Crime No.113 of 2020)

... 1st respondent/Complainant

2.Mohamed Hanifa

...2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the First Information Report in Crime No.113 of 2020 on the file of the first respondent and quash the same as illegal insofar as the petitioner is concerned.

For Petitioner : Mr.K.Navaneetharaja

For Respondents : Mr.M.Sakthi Kumar

Government Advocate (Crl.Side) for R.1

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent.

2. The petitioner is figuring as 23rd accused in Crime No.113 of 2020 registered on the file of Kadayanallur Police Station for the offences under Sections 143, 283, 269 and 353 IPC. The case of the prosecution is that the board installed by the Auto drivers affiliated to SDPI, a political party was removed and that the accused protested against the same by assembling outside the first respondent Police Station. They had also raised slogans. Even though the Police called upon the accused to disperse citing the promulgation of lock down restriction, the accused did not do so. That led to the initiation of the impugned prosecution. To quash the same, this Criminal Original Petition had been filed. The learned counsel appearing for the petitioner fairly concedes that the board in question was installed without getting any prior permission. He also would state that thereafter, it has not been reinstalled.



3. Even going by the case of the prosecution, it is seen that the accused were not suffering from any infectious disease or contributed to its spread. They have assembled outside the Police Station to voice their protest. In a democratic society, such action cannot be said to be impermissible. There has been no complaint from any member of the general public that they were restrained. It is also inconceivable that the Police were restrained from discharging their duties. A harmless assembly of some 30 persons raising slogans cannot be targeted with a prosecution of this nature. Therefore, 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 (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

mga

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,
Kadayanallur Police Station,
Tirunelveli.
(Presently Tenkasi District)
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.1600 of 2022
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