



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

Crl.O.P.(MD) No.5543 of 2022

WEB COPY

Mujipur Rahuman

(Mentioned in charge sheet as  
Mujifrahuman)

...Petitioner/Accused No 1 & 2

Vs.

1. The Inspector of Police  
Tenkasi Police Station  
Tirunelveli District  
Crime No. 670/2019

...Respondent/Complainant

2. K.Adivel

...Respondent/Defacto Complainant

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of impugned Charge Sheet in STC no.279/2020 on the file of the learned Judicial Magistrate Court, Tenkasi and quash the same as illegal as against the petitioner.

|                 |   |                              |
|-----------------|---|------------------------------|
| For Petitioner  | : | Mr.M.U.Shammed John          |
| For Respondents | : | Mr.R.M.Anbunithi             |
| No.1            |   | Additional Public Prosecutor |

### ORDER

The Criminal Original Petition has been filed to quash the proceedings in STC No.279 of 2020 on the file of the learned Judicial Magistrate Court, Tenkasi.

2.The case of the prosecution is that on 06.12.2019 at about 17.30 hrs the defacto complainant/LW9 has received a secret information that the volunteers of TMMK Organization are going to stage a demonstration in front of new bustand Tenkasi since their requisition for condemning the verdict of Babari Masjid was rejected. In such circumstances the second respondent along with other police officials reached the port where 194 persons headed by one Mohamed Yaguf who is the District President of TMMK unlawfully assembled and waylaid the public pathway without obtaining proper permission and raised slogans. Hence the case came to be registered in Crime No. 670 of 2019 for the offences under Sections 143,341 and 283 of IPC. After investigation they also filed final report in STC No. 279 of 2020 on the file of the learned Judicial Magistrate Court, Tenkasi.

3. The learned counsel for the petitioner would submit that the petitioner are the members of TMMK and they conducted protest in a



peaceful manner. The respondent police has registered false case and filed charge sheet as against the petitioner. The Section 143 is punishment for unlawful assembly. Section 41 of the Tamil Nadu City Police Act deals with the power to regulate assemblies, meetings a procession in public place. On the contrary Article 19(1)(b) of the Constitution of India Guarantee every citizen to right to assemble a peaceful manner without arms. He further submitted that it is the duty of the Government to protect the rights of freedom of speech and assemble that is so essential to a democracy. According to Section 195(1)(a) of Cr.P.C., no Court can take cognizance of an offence under Section 143 of IPC, unless the public servant has written order from the authority. Further he submitted that the petitioner or any other members had never involved in any unlawful assembly and there is no evidence that the petitioners restrained anybody. However, the respondent police had registered this case, under Section 143, 341 and 283 of IPC against the petitioner. Therefore, he sought for quashing the proceeding.

4. Per contra, the learned Additional Public Prosecutor submitted that the petitioner along with other conducted stage protest and there are specific allegations as against the petitioner to proceed with the trial. Though there is a bar under Section 195 (a)(i) of Cr.P.C. to take cognizance for the offence under Section 143 290, 341 IPC r/w 41(vi) of CP Act, it does not mean that the police cannot register FIR and investigate the case. More over, the petitioner is an habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. On perusal of the charge, it is seen that the petitioner along with others are going for a stage demonstration, without getting prior permission from the concerned authority. Therefore the respondent police levelled the charges under Sections 143, 341 and 283 of IPC, against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial.

7. In the case on hand, the First Information Report has been registered by the respondent police for the offences under Sections 143 of IPC. They are not a competent persons to register FIR for the offences under Sections 143, 341 and 283 of IPC. As such, the First Information Report or final report is liable to be quashed for the offences under Section 143, 341 and 283 of IPC. Further, the complaint does not even state as to how the protest formed by the petitioner is an unlawful protest and does not satisfy the requirements of Section 143, 341 and 283 of IPC. Therefore, the final report cannot be sustained and it is liable to be quashed.



8. Accordingly, the proceedings in STC No.279 of 2020 on the file of the Judicial Magistrate Court, Tenkasi, is quashed and the Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Judicial Magistrate Court, Tenkasi
2. The Inspector of Police  
Tenkasi Police Station  
Tirunelveli District
3. The Additional Public Prosecutor  
Madurai Bench of Madras High Court  
Madurai.

Cr1.O.P.(MD) No.5543 of 2022  
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SP(CO)  
KB(07.04.2022) 3P 4C