



Crl.O.P.(MD)No.5831 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2022

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD).No.5831 of 2020

and

Crl.M.P.(MD).No.3176 of 2020

- 1.Thilipan Senthil
- 2.Rasu
- 3.Vivek
- 4.Manimuthan
- 5.Tamil Mari
- 6.Suresh
- 7.Suresh
- 8.Marimuthu
- 9.Muniasamy
- 10.Paulsamy
- 11.Saravanakumar
- 12.Karumugilam
- 13.Kiddu
- 14.Kidduraja

... Petitioners/

Accused Nos.1 to 5, 7 to 14 & 20



Crl.O.P.(MD)No.5831 of 2020

Vs.

1.State Represented by
Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.
(In Crime No.407 of 2018)

...1st Respondent/Complainant

2.P.Jeyapandian,
Sub Inspector of Police (6997),
Thilagar Thidal Police Station,
Madurai District.

... 2nd Respondent/ Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the Charge Sheet in S.T.C.No.8162 of 2019 on the file of the Judicial Magistrate No.II, Madurai and quash the same as illegal.

For Petitioners : Mr.A.Jayaramachandran
For R-1 : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor.
For R-2 : No Appearance

ORDER

This Criminal Original Petition is filed to quash the charge sheet in S.T.C.No.8162 of 2019 on the file of the learned Judicial Magistrate No.II, Madurai for the alleged offences under Section 143 and 283 of IPC.

2. It is alleged in the final report that the petitioners along with others had violated prohibitory orders and had raised slogans against the firing that took



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place in Anti-sterlite protest in Thoothukudi and had caused hindrance to the general public for using the work for transportation. Initially, an FIR was registered in Crime No.407 of 2018 for the offences under Section 143, 188 and 341 IPC. The final report was filed only for the offences under Section 143 and 283 IPC.

3. The learned counsel for the petitioners submitted that the impugned charge sheet is liable to be quashed and the issue stands covered by a decision of this Court in ***Crl.O.P.(MD).Nos.1356 of 2018 and batch etc.,*** dated 20.09.2018 in the case of ***Jeevanandham and others Vs. State represented by Inspector of Police and another***, wherein, this Court had held that a violation of promulgation under Section 30(2) of the Police Act will not by itself constitute an offence under Section 143 IPC. This Court further held that right to protest is a constitutional right guaranteed to every citizen of this country. If such protest by assembling of persons are to be stifled by registering FIR, no democratic dissent can ever be shown by the citizens. The relevant observations of this Court are extracted hereunder for better understanding:

“The power under Section 30(2) of the Police Act is merely regulatory in nature. In fact, Section 32 of the Police Act itself provides for a penalty for disobeying an order issued under Section 30(2) of the Police Act with a punishment of a fine not exceeding



200 rupees. Where as an offence under Section 143 of IPC is punishable with imprisonment for a term which may extend to 6 months. Therefore, a violation of the so called promulgation under Section 30(2) of the Police Act will not by itself constitute an offence under Section 143 of IPC. In all the cases, the assembly of persons were made to express dissatisfaction of the governance and claiming for minimum rights that are guaranteed to a ordinary citizen. If such an assembly of persons are to be trifled by registering an FIR under Section 143 of IPC and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution."

In view of the aforesaid decision of this Court, the offence under Section 143 IPC is not made out as against the petitioners.

4. In the above cited case, the final report was filed for offences under Section 143, 341 and 188 IPC were quashed. In the instant case, the offences alleged apart from Section 143 IPC is Section 283 IPC, which is punishable with a fine of Rs.200/-. The reasoning given by this Court for quashing the charge sheet for offences under Section 341 and 143 IPC for acts, which were similar in nature, are squarely applicable for quashing the report for the offence under Section 283 IPC as well. This Court had held that it is a fundamental



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right to protest and show dissent and prosecution cannot be launched in a mechanical manner alleging offences under Section 341 IPC. The offences under Section 283 IPC reads as follows:

“283. Danger or obstruction in public way or line of navigation.— Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees.”

There is no allegation in the impugned final report to show that the act committed by the petitioners had caused danger or injury to any person, which is a necessary ingredient for the offence under Section 283 IPC. Besides that a right to protest is a constitutional right. Hence, following the decision cited supra, the impugned charge sheet is liable to be quashed and hence quashed.

5. This Criminal Original Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

13.12.2022

Index : Yes / No
Internet : Yes/ No
Lm



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To

- 1.The Inspector of Police,
Thilagar Thidal Police Station,
Madurai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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SUNDER MOHAN, J.

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