



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.3526 of 2019

and

Crl.MP (MD)Nos.2007 and 2008 of 2019

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1.R.Govinda Rasu
2.Chandru
3.P.Tamilarasan
4.Kaviyarasan
5.R.Vasu
6.Asokan
7.V.Perman
8.R.Dinesh
9.S.Baskar
10.R.Kalai Selvan
11.P.Manikandan
12.R.Pugal Raja
13.V.Kalaiselvan
14.G.Ulaganathan : Petitioners/A1, A3 to A8,
A10 to A16

Vs.

State by:

1.The Sub Inspector of Police,
Thiruvonam Police Station,
Thanjavur District.
(Crime No.12 of 2018) : R1/Complainant

2.R.Mahendran,
The Sub Inspector of Police,
Thiruvonam Police Station,
Thanjavur District. : R2/Informant

Prayer: Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records pertaining to the Charge Charge in STC No.159 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District and quash the same as against the petitioners.

For Petitioners : Mr.N.Sankar Ganesh

For Respondents : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)



O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.159 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District.

2.The case of the prosecution in brief:-

On 16/01/2018 at about 9.00 pm, near the Anna status Uranipuram, the accused persons assembled unlawfully, caused nuisance and disturbance to the public, condemning the assault upon one Vashu belongs to the Vettavakottai area. Based upon the complaint given by one R.Mahendran, who was working as Sub Inspector of Police, *suo motu* FIR has been registered. After completing the formalities of the investigation, final report was filed alleging that this petitioner has committed the offences under sections 143, 341 and 188 IPC.

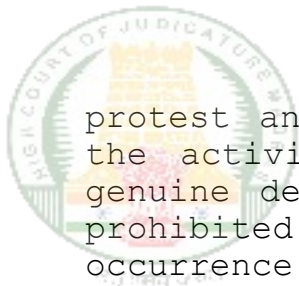
3. Seeking quashment of the above case, this petition came to be filed by the petitioner on the ground that the offences under sections 143, 341 and 188 IPC are not attracted as against the petitioners.

4. Heard both sides.

5. It appears that there was a trouble between two groups of people in that area to which the petitioners belong. But the case in Crime No.12 of 2018 was registered under sections 147, 294(b), 323, 363, 342 IPC r/w 3(1)(r), 3(1)(s) and 3(2)(V)(a) of the SC & ST (PA) Amendment Act, 2015 as against the accused persons, on the basis of the complaint given by one Vasu, S/o.Rasukkannu. The above said Vasu was severally attacked and he was confined and thereafter, he was rescued at the instance of the village elders.

6. As a counter blast, one Amsavalli, who was the mother of the accused Baskar, filed a complaint against the petitioners 8 to 12, over which a case in Crime No.16 of 2018 under sections 294(b), 509 IPC and section 4 of TNPH Women Act, 2002, was registered. In that case, final report was filed in CC No.129 of 2018 and it is pending before the Judicial Magistrate, Alangudi. Similarly a case in Crime No.17 of 2018 was registered on the basis of the complaint given by one Baskaran, who is the son of the above said Amsavalli. So these subsequent events shows that there was a continuous trouble between two groups, which resulted in registration of three FIRs.

7. According to the petitioners, even though final report has been filed in Crime No.16 of 2018, no action has been taken on the basis of the complaint given in Crime No.18 of 2018. Staging of



protest and demanding action against the persons, who involved in the activity cannot be construed as 'illegal demand'. It is a genuine demand and in a democratic country, such a demand is not prohibited. More-over, assembly of the persons in the place of occurrence was not with a view to do any illegal act.

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8. So far as Section 143 IPC is concerned, for the purpose of taking cognizance under Section 143 IPC, the ingredients under Section 141 IPC must be brought on record. Section 141 IPC reads as follows:-

"141.Unlawful assembly -An assembly of five or more persons is designated an **"unlawful assembly"**, if the common object of the persons composing that assembly is-

First - To overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or

Second - To resist the execution of any law, or of any legal process; or

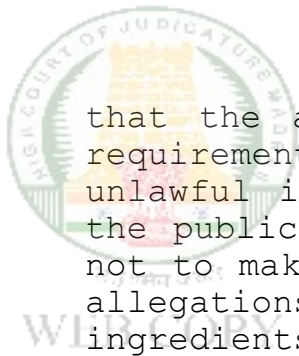
Third - To commit any mischief or criminal trespass, or other offence; or

Fourth - By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth - By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation - An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly."

9. From the reading of Section 141 IPC, the ingredients of offence are not attracted to the present occurrence. It appears that the petitioners and others conducted a demonstration and protest in a peaceful manner. When we go through the definition, it appears



that the allegation against the petitioners does not satisfy the requirement. The assembly of the persons cannot be construed as an unlawful in nature. Similarly, the allegation that they restrained the public movement is also without any basis. Their intention was not to make any obstruction to the public movement. So none of the allegations mentioned in the final report attracts, any of the ingredients against the petitioners. So, I am of the considered view that continuation of proceedings will amount to abuse of process of court and law.

10.In the result, this criminal original petition stands **allowed**. The proceedings in STC No.159 of 2018 pending on the file of the District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

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/ /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 District Munsif-cum-Judicial Magistrate,
Orathanadu, Thanjavur District.
- 2.The Sub Inspector of Police,
Thiruvonam Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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RD(24.03.2022) 4P 4C