



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2022

CORAM:

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

Crl.O.P.(MD).No.8038 of 2022

and

Crl.M.P(MD)No.5441 of 2022

WEB COPY

1.Sarath @ Sarathkumar

2.Vijay

3.Praveen

4.Mathankumar

5.Muthupandi

6.Balamurugan

7.Ajithkumar

8.Meyya @ Meikumar

9.Panju

...Petitioners

Vs.

1.The State represented by
The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.
(Crime No.36/2022)

2.Nagarajan,
The Sub-Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the entire records pertaining to the FIR in Crime No.36/2022, pending on the file of the Inspector of Police, Chatrakudi Police Station, Ramanathapuram District and quash the same.

For Petitioners : M/s.R.L.Dhilipan Pandian

For Respondents : Mr.B.Thanga Aravindh
Government Advocate(Crl.Side)

**ORDER**

This criminal original petition has been filed seeking to quash the FIR in Crime No.36/2022, pending on the file of the Inspector of Police, Chatrakudi Police Station, Ramanathapuram District.

2.The case of the prosecution is that on 09.02.2022, when the defacto complainant was present at the scene of occurrence, all the accused persons have caused hindrance to the general public by uttering bad words even after repeated warning. On the complaint lodged by the second respondent the first respondent registered the FIR in crime No.36 of 2022 for the offences under Sections 143, 341 and 291 of IPC. There are totally 12 accused persons, in which, the petitioners are arraigned as Accused Nos.1,2,3,5,6,7,8,11 and 12.

3.On a perusal of the FIR revealed that there was clash between two groups, due to which, one person was injured. Therefore, the petitioners and others were sit in the road and caused hindrance to the traffic. Though the officials warned them to remove the hindrance to the general public and traffic, they refused to move away. To constitute an offence under Section 291 of IPC, there must be an order of injunction against the accused persons by a public servant or Court restraining them from repetition or continuance of public nuisance. However, on a perusal of the impugned order revealed that there was no such injunction order as against the accused persons by a public servant or Court.

4.Likewise, to attract the offence under Section 339 of IPC, the accused persons must have wrongfully restrained by any person from moving further in any direction, in which, he has a right to proceed. However, there is absolutely no allegation that the petitioners wrongfully restrained any public to move further. Therefore, no offence under Section 341 of IPC is made out as against the petitioners.

5.Insofar as the offence under Section 143 of IPC is concerned, it is relevant to extract the provision under Section 143 of IPC, which reads as follows:

'Punishment.—Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.'

Thus, it is clear that on a perusal of the FIR, no allegation specified by the prosecution to attract the offence under Section 143 of IPC as against the petitioners.

6.Hence, the continuance of the impugned FIR for further investigation would amount to clear abuse of process of law and it cannot be sustained as against the petitioners.



7. In view of the above, the FIR in Crime No.36 of 2022 is quashed. Accordingly, the criminal original petition stands allowed. Consequently, the connected miscellaneous petition is also closed.

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// True Copy //

Sd/-

Assistant Registrar (CS I)

/ /2022

Sub Assistant Registrar (CS)

ps/lr

To

1. The Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.

2. The Sub-Inspector of Police,
Chatrakudi Police Station,
Ramanathapuram District.

3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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28.04.2022

SS/31.05.2022 : 3P/4C