



Crl.O.P.(MD) No.13192 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.13192 of 2022

and

Crl.M.P(MD) Nos. 8407 & 8408 of 2022

1. Anthony Muthu
2. Neethy Arasar
3. Jisthi Mohamed
4. Susela

... Petitioners/ Accused No.1 to 4

Vs

1. The State Represented by
The Inspector of Police,
Vadaseri Police Station,
Nagercoil.
Crime No.385 of 2017

... 1st Respondent/ Complainant

2. M.P.Mohana Iyyar

... 2nd Respondent/De-facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records in C.C.No.294 of 2020 on the file of the Judicial Magistrate-II, Nagercoil, quash the same.



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For Petitioners : Mr.C.T.Perumal
Advocate.

For R1 : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed to quash the criminal proceedings in C.C.No.294 of 2020 on the file of the Judicial Magistrate-II, Nagercoil.

2. The case of the prosecution is that on 08.07.2017, when the second respondent along with other officials was on bandobast duty with regard to the visit of R.S.S President to Nagercoil. All the petitioners/ accused were standing before the two-wheeler parking area located in the southwest side of Vadaseri Bus stand and made preparations to show black flag to the R.S.S President, who is visiting the city and also to trouble the public meeting addressed by him on 09.07.2017. The petitioners belong to CPI(M) Party and all India Political Party and they are ideologically opposed to R.S.S and therefore, apprehending that the petitioners/accused will oppose



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the visit of the R.S.S President to the city, in a democratic manner picked them and foisted the present case. The case has been registered against them only political vendetta and there is no iota of fact in the same and any order passed proclaimed by the public servant no offence is made out against the petitioners and the criminal proceedings is abusing the process of law and liable to be pleaded to quash the petition.

3. The learned counsel for the petitioners submitted that the complaint given by the second respondent against the petitioners, a case has been registered in Crime No.385 of 2017 for the offences under Sections 151 of Cr.P.C r/w 7(1)(a) CLA Act, 2005, on the file of the first respondent police. After investigation, charge sheet has been filed before the Judicial Magistrate No.II, Nagercoil in C.C.No.294 of 2020 and the same is pending for trial.

4. The learned Additional Public Prosecutor appearing for the first respondent submitted that the case was taken on file and summon was issued to the petitioners and other accused. Now, it is posted for further hearing on 25.08.2022.



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5. I have considered the matter in the light of the submissions made by the learned counsel for both parties.

6. A perusal of the records reveals the fact that the case has been registered against the petitioners in Crime No.385 of 2017 for the offences under Sections 151 of Cr.P.C r/w 7(1) (a) CLA Act. On 08.07.2017, a complaint was given by the second respondent to the first respondent police. After investigation, charge sheet has been filed in C.C.No.294 of 2020 before the Judicial Magistrate No.II, Nagercoil.

7. On a perusal of the records, it is seen that the allegation against the petitioners is that when the respondent police/complainant along with other police made surveillance at Nagercoil, Vadaseri bus stand two-wheeler parking area located in the southwest side, the petitioners made preparations to show black flag to the R.S.S President who is visiting the city and also to trouble the public meeting to be addressed by him on 09.07.2017. Therefore, the respondent police arrested the accused and remanded to judicial custody and registered a case. The remaining witnesses have not given any specific evidence and there is no statement available in the



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complaint given by the petitioners with regard to the assembly of less than five is not an unlawful assembly within the meaning of Section 149 I.P.C and it cannot, therefore, form the basis for the offence under Section 149 I.P.C and there is no statement available to show that the petitioners formed an unlawful assembly within the meaning to Section 149 I.P.C and further, it has not been stated that they disobeyed the command of the police officer to disperse the unlawful assembly to satisfy the ingredients for the offences punishable under sections 151 I.P.C and 7(1)(a) of Criminal Amendment Act. Continuance of the criminal proceedings against the petitioners would be abuse of process of law and is liable to be quashed.

7. Accordingly, this Criminal Original Petition stands allowed and the criminal proceedings in C.C.No.294 of 2020, on the file of the Judicial Magistrate No.II, Nagercoil, is hereby quashed. Consequently, the connected miscellaneous petitions are closed.

21.07.2022

Internet:Yes./No
Index:Yes/no
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To

1. The Judicial Magistrate No.II,
Nagercoil.
2. The Inspector of Police,
Vadaseri Police Station,
Nagercoil.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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