



CRL.O.P(MD)No.14634 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.14634 of 2022

and

CrI.M.P(MD)Nos.9497 and 9498 of 2022

Kaviraj @ Kavithairaj

... Petitioners/Accused No.1

Vs.

1.State Rep. by

The Inspector of Police,
Mandala Manickam Police Station,
Ramanathapuram.

... 1st Respondent/Complainant

2.Baby Essakki Braadhambal

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the charge sheet in S.T.C.No.566 of 2022 on the file of the Judicial Magistrate, Kamuthi and quash the same as against the petitioner is concerned.

For Petitioner : Mr.R.Maheswaran

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



CRL.O.P(MD)No.14634 of 2022

ORDER

WEB COPY

This petition is filed to quash the charge sheet in S.T.C.No.566 of 2022 on the file of the learned Judicial Magistrate, Kamuthi and quash the same as against the petitioner.

2.The learned counsel appearing for the petitioner submitted that the petitioner did not involve in any crime as alleged by the second respondent. In fact, the petitioner went out to buy medicine to his mother and he explained the critical situation of his mother to the second respondent. However, the respondent police registered the case against the petitioner for the offences punishable under Sections 143, 269 and 270 of IPC. As far as the offence under Section 143 IPC is concerned, whoever is a member of unlawful assembly, shall be punished and as far as the offence under Sections 269 and 270 IPC are concerned, whoever, unlawfully or negligently or malignantly does any act, which is, and which he knows or has reasons to believe, to be likely to spread the infection or disease dangerous to life, shall be punished. Therefore, the offences would not attract against the petitioner and hence, he prays for quashing the said charge sheet.



CRL.O.P(MD)No.14634 of 2022

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that after registering the case, investigation has been completed and charge sheet has been filed before the learned Judicial Magistrate, Kamuthi and the same has been taken on file in S.T.C.No.566 of 2022 and before commencement of trial, the said charge sheet cannot be quashed.

4. I have considered the submission of the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the respondent police.

5.A perusal of records shows that the petitioner is an accused in S.T.C.No.566 of 2022 on the file of the learned Judicial Magistrate, Kamuthi. The charge against the petitioner is that the petitioner along with other accused persons, without following Covid-19 restrictions participated in Pasumpon Muthuramalinga Thevar Guru Poojai. Hence, the case has been registered in Crime No.166 of 2020 for the offences punishable under Sections 143, 269 and 270 of IPC. Admittedly, the petitioner is not a member of the unlawful assembly. To that effect, there is no material



CRL.O.P(MD)No.14634 of 2022

evidence available on record. Further, for attracting Sections 269 and 270 of IPC, there is no material on record that the petitioner acted in spreading the infection or disease dangerous to life. Therefore, the petitioner is not a member of unlawful assembly and he has not acted in spreading the infection or disease dangerous to the public. Therefore, no offence is made out under Sections 143, 269 and 270 of IPC. In these circumstances, the continuance of criminal proceedings would amount to an abuse of process of law. Hence, the charge sheet is liable to be quashed.

9. Accordingly, this Criminal Original Petition is allowed. The charge sheet in S.T.C.No.566 of 2022 on the file of the learned Judicial Magistrate, Kamuthi, is hereby quashed. Consequently, connected miscellaneous petitions are also closed.

16.08.2022

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



WEB COPY



CRL.O.P(MD)No.14634 of 2022

To

- 1.The Judicial Magistrate,
Kamuthi.
- 2.The Inspector of Police,
Mandala Manickam Police Station,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CRL.O.P(MD)No.14634 of 2022

V.SIVAGNANAM, J.

vsd

ORDER IN
CRL.O.P(MD)No.14634 of 2022
and
Crl.M.P(MD)Nos.9497 and 9498 of 2022

16.08.2022