



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.21481 of 2018

and

Crl.MP(MD)No.9947 of 2018

WEB COPY

M.Hussain Kani : Petitioner/A7

Vs.

1.The State rep. By
The Inspector of Police,
OCU-CBCID, Madurai City,
(In Crime No.33 of 2017)
on the file of Perungudi P.S.
Madurai. : R1/Complainant

2.G.Guna Sekaran : R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records relating to CC No.1 of 2018 on the file of the Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioner	: Mr.M.Seeni Sulthan
For 1 st Respondent	: Mr.P.Kottai Chamy Government Advocate (Criminal side)
For 2 nd Respondent	: No appearance

ORDER

This criminal original petition is filed seeking quashment of the case in CC No.1 of 2018 on the file of the Judicial Magistrate No.IV, Madurai.

2.The case of the prosecution in brief:-

Demanding permission for conducting Jallikattu, the students and one Peta Organisation making demand and staged protest and demonstration, etc. So the Deputy Superintendent of Police, Thiruparankundram, proclaimed an order, on 11/01/2017 under section 30(2) of the City Police Act, prohibiting the procession, protest, meeting etc. The accused persons knowing fully that such a prohibitory order is in force, on 20/01/2017 without any prior permission, at 9.30 am, assembled illegally near the old-new check post and staged demonstration and protest. They also raised slogans against the Government. They also prevented the police authorities from discharging their duty and also caused nuisance to the public. Based upon that incident, *suo motu* FIR has been registered for the

<https://hcservices.ecourts.gov.in/hcservices/>

by the

4. Heard both sides.

6. Section 141 reads as follows:-

(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 entitled to do.



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

7. So the ingredients are the factual issue and this court can come to the conclusion that the protest, that was made by the petitioner will not amount to an illegal demand and it does not fit into any definition of section 141 IPC.

8. With regard to section 341 IPC also, no enough materials are available or collected during the course of investigation. None from the public has been examined by the Investigating Officer. It appears that the witnesses examined were most of the persons working in the Government Department, the question of wrongful confinement or restrain may not be attracted.

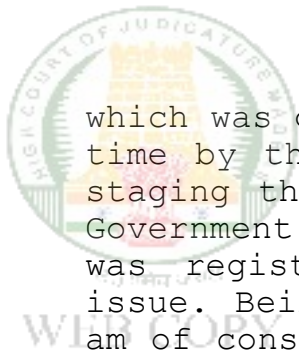
9. Sections 339 IPC defines 'wrongful restrain', which read as under:-

"339. Wrongful restraint.—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person."

10. Section 340 IPC defines '**confinement**' as, "whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person."

11. As mentioned earlier, this provision of law is also not attracted. Regarding section 353 IPC, it is not an intention of the petitioner to prevent the police officers from discharging their official duty. Their aim is only to make their protest and demanding the Government to lift the ban. So also section 356 IPC is also not attracted.

12. Regarding section 188 IPC also, there is no evidence on record to show that this petitioner was also informed about the prohibitory order, that was imposed in that locality by the Deputy Superintendent of Police, Thiruparankundram. There was no such material. In the facts and circumstances of this case, the first respondent ought to have arrested the petitioner by exercising the power under section 41 Cr.P.C and would have been released, after sometime and it has been usually done in the case of demonstration and protest. Without exercising such a sort of power, registration of the FIR may not be proper and the petitioner no-way got any personal interest in the demonstration and it was a common issue,



which was going through out Tamil Nadu, during the relevant point of time by the various Associations, Political parties, students were staging the protest. Knowing the mind of the public only, now the Government has passed G.O. to drop the criminal proceedings, which was registered against the protestors in respect of Jallikattu issue. Being the judicial notice of the stand of the Government, I am of considered view that continuation of the criminal proceedings may not be in the interest of the public. On that sole ground, this petition is liable to be allowed.

13.In the result, this criminal original petition is **allowed**. The impugned proceedings in CC No.1 of 2018 pending on the file of the Judicial Magistrate No.IV, Madurai is hereby quashed as against this petitioner. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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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 Judicial Magistrate No.IV,
Madurai.
- 2.The Inspector of Police,
OCU-CBCID, Madurai City,
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.O.P. (MD)No.21481 of 2018
11/03/2022

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