



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2022

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P (MD)No.20771 of 2021

- 1.U.Vasuki
- 2.Ganesan
- 3.Nagaraj
- 4.Mohan
- 5.Bavanipandi
- 6.Kathiravan
- 7.Valavan Raj
- 8.Muthu
- 9.Saravanakumar
- 10.S.K.Ponnuthai
- 11.S.Sasikumar
- 12.J.Parathasarthy
- 13.P.Manickam
- 14.M.Udaya Kumar
- 15.Kalimuthu
- 16.J.Arunpandi
- 17.R.Sasikala
- 18.Rajeswari
- 19.Tamilarasi
- 20.Bagavathi
- 21.Jeya
- 22.Angayarkanni
- 23.Selvi
- 24.Ponmalar
- 25.Sudharani
- 26.Jothi

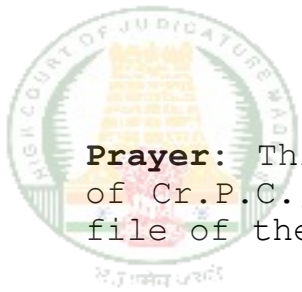
... Petitioners/ Accused 1-26
Vs.

- 1.State rep by
The Inspector of Police,
B6 Jaihindpuram Police Station,
Madurai District.
(Crime No.573 of 2016)

... 1st Respondent/Complainant

- 2.A.Martin Selvaraj,
The Sub Inspector of Police,
Jaihindpuram Police Station,
Madurai District.

... 2nd Respondent/
De-facto Complainant



Prayer: This Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.962 of 2016 on the file of the Judicial Magistrate No.IV, Madurai and quash the same.

For Petitioners : Mr.L.Shaji Chellan

For Respondents : Mr.E.Antony Sahaya Prabahar,
Addl. Public Prosecutor.

O R D E R

Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondents.

2.The petitioners are figuring as accused in S.T.C.No.962 of 2016 on the file of the Judicial Magistrate No.IV, Madurai.

3.The case of the prosecution is that on 13.05.2016, the petitioners had blocked Jaihindpuram second main road and raised slogans against the police. Even though the petitioners were called upon to disperse, the petitioners initially did not pay heed to the said directive and continued to squat on the road and blocked the free movement of traffic. In this regard, Crime No.573 of 2016 was registered on the file of Jaihindpuram Police Station for the offences under Section 143, 341 and 188 of IPC. After investigation, final report was filed and cognizance was also taken. To quash the same, this criminal original petition has been filed.

4.The learned counsel for the petitioners reiterated all the contentions set out in memorandum of grounds and called upon this Court to quash the impugned proceedings.

5.Per contra, the learned Additional Public Prosecutor appearing for the respondents submitted that no case for quashing has been made out.

6.I carefully considered the rival contentions and went through the materials on record. During May, 2016 election to Tamilnadu State Legislative Assembly was held and that the first petitioner herein was a candidate representing CPI (M) in Madurai West Constituency. Thus, the occurrence in question had taken place during an election campaign. The specific allegation of the learned counsel for the petitioners is that they found the rival political parties distributing cash to the voters and that this was being protested by them. I take judicial notice of the fact that rampant use of cash for getting votes is an electoral reality. Without dwelling further thereon, let me consider if the prosecution is justified. The police could not have registered an FIR for the offence under Section 188 of IPC on their own. This was clarified



authoritatively in the decision reported in **2018(2) L.W (Cr1.) 606 (Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another)**. Since the petitioners were carrying on their election campaign, the assembly of the petitioners in Jaihindpuram main road cannot be termed as unlawful. Of course, the petitioners had blocked the road and indulged in sloganeering. That again will not amount to an offence. They were after all protesting the illegal distribution of case among voters. The petitioners were very much entitled to challenge such brazen display of money-power. It is not only their democratic right but also a democratic duty. The petitioners' act will not amount to an offence under Section 341 of IPC. No damage to any public property was caused. The petitioners had not indulged in any act of violence. They legitimately had lodged their protest. The very initiation of the impugned prosecution is bad in law. The impugned proceedings are quashed and the criminal original petition is allowed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /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,
B6 Jaihindpuram Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-91[F] dated 04/01/2022)
Crl.O.P(MD)No.20771 of 2021
03.01.2022

RD(5.01.2022) 3P 5C

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