



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15/02/2022

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGOVAN**

Crl.O.P.(MD)No.16953 of 2019

and

Crl.MP(MD)No.10041 of 2019

Mr.V.Maria Ruban @ Ruban : Petitioner/A14

Vs.

1.State represented by  
Inspector of Police,  
Colachel Police Station,  
Kanyakumari District.  
(Crime No.452 of 2017) : Respondent/Complainant

2.Mr.Vinoth Kumar,  
Village Administrative Officer,  
Colachel,  
Kanyakumari District. : Respondent/Complainant

3.The Inspector of Police,  
CBCID,  
Special Investigation Department, (SID)  
Tirunelveli,  
Tirunelveli District. : R2/De-facto Complainant

**Prayer:**Criminal Original Petition has been filed under Section 482 Cr.P.C. to call for the records and quash pertaining to the Charge Sheet in STC No.736 of 2019 pending on the file of the Judicial Magistrate, Eraniel, Kanyakumari District.

For Petitioner : Mr.J.Pandi Dorai  
For Respondents : Mr.P.Kottai Chamy  
Government Advocate  
(Criminal side)

**O R D E R**

This criminal original petition has been filed seeking quashment of the case in STC No.736 of 2019 pending on the file of the Judicial Magistrate, Eraniel, Kanyakumari District.



**2.The case of the prosecution in brief:-**

On 08/12/2017 at about 12.30 noon, the accused persons unlawfully assembled near Cholachel Anna statue, obstructed the public movement, caused nuisance, demanding the tracing of the fishermen community people, who were lost in the cyclone, demanded compensation. So, based upon the complaint given by the Village Administrative Officer, the case has been registered for the offences under sections 341, 143, 188 IPC. After completing the formalities of the investigation, final report was filed against all the persons numbering about 160 alleging that they have committed the offences punishable under sections 341, 143 and 188 IPC.

3. Seeking quashment of the same, the petitioners are before this court.

4. Heard both sides.

5. Perusal of the records and the final report shows that this petitioner along with the other accused persons assembled in the place of occurrence, demanding compensation as well tracing of the missing of fishermen community people due to cyclone. So their aim was not to make any nuisance or cause disturbance to the public movement. A genuine demand has been made by the petitioner. Seeking compensation and tracing of the missing people, cannot be construed as 'illegal demand'. More-over, mere assembly of the persons making the genuine demand and protest will not amount to unlawful assembly.

6. Section 141 IPC defines unlawful assembly, which reads as follows:-

*"141.Unlawful assembly.-An assembly of five or more persons is designated an "unlawful assembly", if the common object of the persons composing that assembly is-*

*First-To overawe by criminal force, or show of criminal force, or any public servant in the exercise of the lawful power of such public servant; or*

*Second-To resist the execution of any law, or of any legal process; or*

*Third.-To commit any mischief or criminal trespass, or other offence; or*

*Forth.-By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of*



the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

*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 legally entitled to do.*

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

7. So reading of the ingredients of the offence under section 141 IPC will show that their protest and agitation was not unlawful in nature. Their aim was not to make any public nuisance, obstruction to the public movement, etc. So section 143 IPC is not attracted.

8. So far as section 188 of IPC is concerned, it is now settled that it is a non-cognizance offence and the police has no right to register FIR and file a final report. But however, section 341 IPC is also connecting, the police ought to have directed the petitioner and others to disperse from that area or by exercising the power under section 41(1) of Cr.P.C, they would have detained the petitioner and others for having obstructed the traffic. But instead of doing these things, a case has been registered. Moreover, in the facts and circumstances of the case, section 341 IPC is not attracted.

9. The allegation against the petitioner will not attract the ingredients of the above said offences.

10. Regarding section 341 IPC also, absolutely there is no material on record to show that the petitioner assembled in that area only to cause disturbance, nuisance and made obstruction to the public movement. In the absence of any such intention on the part of the petitioner, the offence under section 341 IPC is also not attracted. So the continuation of the proceedings against the petitioner will amount to abuse of the process of court and law. So, the impugned proceedings against the petitioner is liable to be quashed.

11. Even though, the 14<sup>th</sup> Accused has preferred this petition, the benefit available to him can be extended to the other accused persons also, even though they have not approached this court praying the relief.

12. In the facts and circumstances of this case, I am of the considered view that the entire proceedings in STC No.736 of 2019 pending on the file of the Judicial Magistrate, Eraniel, Kanyakumari



District is quashed in entirety.  
Miscellaneous Petition is closed.

Consequently connected

Sd/-

Assistant Registrar (Records)

// 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,  
Eraniel, Kanyakumari District.
- 2.The Inspector of Police,  
Colachel Police Station,  
Kanyakumari District.
- 3.The Village Administrative Officer,  
Colachel,  
Kanyakumari District.
- 4.The Inspector of Police,  
CBCID,  
Special Investigation Department, (SID)  
Tirunelveli,  
Tirunelveli District.
- 5.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.J.PANDI DORAI, Advocate ( SR-6424[F] dated 16/02/2022 )

**Crl.O.P. (MD)No.16953 of 2019**

**15/02/2022**

SB(CO)

GC(23.03.2022) 4P 7C