



Crl.O.P.Nos.3681 & 6099 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.Nos.3681 & 6099 of 2021

and

Crl.M.P.Nos.2191, 2197, 4013 & 4014 of 2021

- 1.L.C.Thirumalai
- 2.K.Sekar
- 3.Kachapalayam
- 4.R.Ponmanikandan
- 5.M.Meena
- 6.K.Mahalakshmi
- 7.G.Deepa
- 8.N.Alamelu
- 9.K.Sumithra
- 10.N.Sivakami
- 11.M.Mariyammal
- 12.R.Padmavathy
- 13.S.Parasakthi
- 14.S.Kalaiselvi
- 15.G.Revathi
- 16.A.G.Maragathamani
- 17.K.Prabu
- 18.K.Venkataramanan
- 19.M.Chandrasekar
- 20.D.Deepan Varma
- 21.D.Giribabu
- 22.K.S.Suresh Kumaran
- 23.R.Baskaran
- 24.M.Sarathkumar

...Petitioners / Accused 1 to 3, 18 to 22 and 24 to 39
(in Crl.O.P.No.3681 of 2021)



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- 1.T.Sivanesan
- 2.A.Saravanakumar
- 3.R.Gunaseelan
- 4.M.Elamvaluthi
- 5.V.Sivamurugan
- 6.P.Elangovan
- 7.M.Thangaraju
- 8.P.C.Sathyanarayanan
- 9.M.Thirumalai
- 10.L.B.Sujatha
- 11.H.Thilagam
- 12.B.Mahalakshmi
- 13.R.Kungumapriya
- 14.T.G.Sunitha

... Petitioners / Accused 4 to 8, 10 to 17 and 23
(in Crl.O.P.No.6099 of 2021)

-Vs-

- 1.The State rep. by:
The Inspector of Police,
G-3 Police Station,
Kilpauk,
Chennai – 10.
(Crime No.124 of 2019)

... 1st Respondent / Complainant

- 2.Interim Administrator,
Pachaiyappa's Trust,
No.113, Harington Road,
Chennai – 600 030.
(Now he removed by judgment in
O.S.A.No.60, 61, 62 of 2020 dated 23.12.2020

... 2nd Respondent / Defacto Complainant
(in both Crl.O.Ps)

Prayer: Criminal Original petitions filed under Section 482 of Code of



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Criminal Procedure, to call for the records relating to the proceedings in C.C.No.1232 of 2020 on the file of the 1st respondent and to quash the same.

For Petitioners	: Mr.G.Murugendran (in Crl.O.P.No.3681 of 2021)
For Petitioners	: Mr.C.Vijayakumar (in Crl.O.P.No.6099 of 2021)
For R1	: Mr.A.Damodaran, Additional Public Prosecutor. (in both Crl.O.Ps)
For R2	: Mr.C.S.S.Pillai (in both Crl.O.Ps)

ORDER

These Criminal Original Petitions have been filed seeking to quash the proceedings in C.C.No.1232 of 2020 on the file of the learned Metropolitan Magistrate – II, Egmore, Chennai, filed for the alleged offence under Sections 143, 147, 448, 341, 342 r/w 149 IPC.

2. It is alleged in the final report that on 11.04.2019, the petitioners, some of whom are professors and others staff members of Pachaiyappa's College protested outside the college premises and formed themselves into an unlawful assembly and prevented the other staff



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members from entering the college premises. It is alleged that the 3rd petitioner / A3 had unlawfully locked the grill gate of the premises. The complaint was lodged by the Administrator of the Pachaiyappa's Trust, appointed by this Court, who is a retired Judge of this Court. The learned Judge had given the complaint stating that he apprehended that the petitioners would prevent the holding of the College Committee Meeting on 15.04.2019 and that the petitioners had indulged in all forms of protest by shouting and abusing the other officials of the Trust in front of the office. Hence, the complaint.

3. The learned counsel for the petitioners submitted that the petitioners had protested in a peaceful manner. The protest is sought to be projected as unlawful assembly. They are all employed in Pachaiyappa's College, and therefore, the offence of trespass is not made out. Hence, he prayed for the quashing of the final report.

4. The learned counsel for the 2nd respondent vehemently opposed the quashing of the impugned final report and submitted that there are allegations in the impugned final report and supporting materials to establish the offences. Hence, he prayed for the dismissal of the quash



petition.

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5. The learned Additional Public Prosecutor appearing of the 1st respondent reiterated the submissions made by the learned counsel for the 2nd respondent.

6. This Court finds that the FIR, which culminated in the impugned final report, was lodged seeking protection for conducting the meeting on 15.04.2019. Based on the complaint given by the learned Judge, police protection was given and it is reported that the meeting was held on 15.04.2019. The allegations would suggest that the petitioners had protested outside the college premises. An assembly of persons for the purpose of protest cannot be termed as unlawful assembly. Hence, the offences under Sections 143 and 147 IPC are not made out. As regards wrongful restraint, the allegation is that they had prevented the entry of other staff members to the college. This Court in *Jeevanandham and others vs. State* reported in **2018 SCC online Mad 13698 : (2018) 2 LW (Cri) 606** had held that merely because some hindrance is caused to the movement of certain persons for some time due to a protest, the said act would not attract the offence of wrongful



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restraint. Hence, the offence under Section 341 of the Indian Penal Code

is not made out. Admittedly, the petitioners are all employed in Pachayappa's College, and hence, their entry into the college cannot be termed as Criminal trespass. The allegation against one of the staff members is that he had closed the grill gate. Further, it is seen that on 15.04.2019, the meeting was conducted (for which protection was sought for in the FIR) without any hindrance. Even assuming that the offences are made out, the harm caused by the accused on account of their protest on 11.04.2019 is slight and would be covered by Section 95 of IPC.

7. That apart, it is seen that the petitioners are either professors or staff members of Pachaiyappa's College. All of them have today filed Affidavits expressing their sincere apology for the occurrence said to have taken place on 11.04.2019 and further undertaking that they would not indulge in any activity prejudicial to the smooth functioning of the Pachaiyappa's College Trust Office in future. Since the petitioners have expressed regret for their action and filed Affidavits and also for the reasons stated above, this Court is of the view that the impugned final report is liable to be quashed to secure the ends of Justice. However, it is made clear that the petitioners shall not be subjected to any action,



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departmental or otherwise for filing such Affidavits before this Court.

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8. Therefore, this Court is inclined to quash the impugned final report in C.C.No.1232 of 2020 on the file of the learned Metropolitan Magistrate – II, Egmore, Chennai. Accordingly, this Criminal Original Petition is allowed. Connected Criminal Miscellaneous Petitions are closed.

27.04.2023

smv

Internet: Yes

Index : Yes/No

Speaking/Non Speaking order

To,

1.The State rep. by:

The Inspector of Police,
G-3 Police Station,
Kilpauk,
Chennai – 10.

2.Interim Administrator,

Pachaiyappa's Trust,
No.113, Harington Road,
Chennai – 600 030.

3.The Public Prosecutor,

High Court of Madras.

SUNDER MOHAN,J.

smv



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