



Crl.OP.No.5827 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 15.03.2023

CORAM

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

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1.Kaliyappan

2.Murali

3.Uthaman

4.Asath

5.Janagiraman

6.Anbucheziyan @ Anbu

7.Thilak

8.Jayapandiyan

9.Karthiga

10.Tamil

11.Sanmugasundaram

... Petitioners

Vs.

The Inspector of Police,



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Nannilam Police Station,
Thiruvarur District

... Respondent

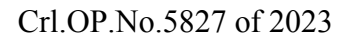
PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the proceedings in STC No.249 of 2018 pending on the file of learned District Munsif Cum Judicial Magistrate Court Nannilam.

For Petitioners : Mr.P.Muthamizhselvakumar
For Respondent : Mr.S.Santhosh
Government Advocate (Crl side)

ORDER

This Criminal Original Petition has been filed to call for the records and quash the proceedings in STC No.249 of 2018 pending on the file of learned District Munsif Cum Judicial Magistrate Court Nannilam.

2.The learned counsel for the petitioners submitted that petitioner is prosecuted for offence under Section 341, 143 and 188 I.P.C. allegedly for protest against Government. There is no specific allegation against the petitioners for making out offence under Section 143 and 341 I.P.C. Therefore, this petition is filed for quashing F.I.R.No.393 of 2017.



<https://www.mhc.tn.gov.in/judis>



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After investigation, Final Report was filed under Section 143 and 341 I.P.C.

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6.This Court in Crl.O.P.No.23022 of 2022 while dealing with quashing of case registered under Section 143 & 341 IPC observed that only if the unlawful assembly confirms to the definition of unlawful assembly as defined under Section 141 IPC, the member of unlawful assembly can be prosecuted under Section 143 IPC. It is also relevant to note the definition of Unlawful Assembly:

“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 -

(i) to overawe by criminal force, or show of criminal force, the Central or any State Government or Parliament or the Legislature of any State, or any public servant in the exercise of the lawful power of such public servant; or



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(ii) to resist the execution of any law, or of any legal process; or

(iii) to commit any mischief or criminal trespass, or other offence; or

(iv) 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

(v) 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.-

7.In the case before hand, there is no specific allegations against the petitioner or any of the member of the unlawful assembly that they used criminal force with a common object of overawe the Central or State Government, resisted the execution of any law or of any process, committed



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any mischief or criminal trespass, take possession of any property, deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right, compelled any person to do what he is not legally bound to do or to omit to do what he is legally entitled to do. In the absence of specific allegations in this regard, it is no doubt that the alleged assembly cannot be considered as unlawful assembly and the members of alleged unlawful assembly cannot be prosecuted for the offence under Section 143 IPC. Similarly, there is no statement obtained from any member, individual or vehicle driver as to whether they were prevented or criminally restrained from proceeding further. Therefore, this Court is of the considered view that the ingredients for prosecuting the petitioner under Section 143 and 341 IPC are not made out and the continuation of trial would be a harassment to the petitioner.

8. For these reasons, this Court is of the view that, proceeding further in this case would be an abuse of process of Law. Therefore, this Criminal Original petition is allowed. Proceedings against the petitioners in S.T.C.No.249 of 2018 on the file of the learned District Munsif Cum Judicial



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Index : Yes / No
Speaking / Non Speaking order
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To

- 1.The Inspector of Police,
Nannilam Police Station,
Thiruvarur District.
- 2.The Public Prosecutor
High Court of Madras.



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G.CHANDRASEKHARAN,J.

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