



WEB COPY



CrI.O.P.No.5135 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM:

THE HON'BLE MR.JUSTICE **SUNDER MOHAN**

CrI.O.P.No.5135 of 2021 and
CrI.M.P.Nos.3267 & 3268 of 2021

Mr.Jemiha @ Jemeesa

... Petitioner

Vs.

1.State rep by its
The Inspector of Police,
Mettupalayam Police station,
Coimbatore.

2. Mr.Sivakumar
The Sub-Inspector of Police,
Mettupalayam Police Station,
Coimbatore.

... Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.34 of 2018 pending on the file of the District Munsif cum Judicial Magistrate, Mettupalayam and quash the same.

For Petitioners : Mr.K.N.Ramuddin

For Respondent 1 : Mr.S.Balaji
Government Advocate (CrI.Side)



Crl.O.P.No.5135 of 2021

WEB COPY

ORDER

This Criminal Original Petition has been filed to quash the Charge Sheet in C.C.No.34 of 2018, pending on the file of the District Munsif cum Judicial Magistrate, Mettupalayam.

2. It is alleged in the charge sheet that on 26.09.2014, while the second respondent was providing police protection to the Reliance Company cell phone tower as directed by this Court by order dated 08.08.2014 in Crl. O.P.No.20962 to 209977 of 2014, one Mohammed Sathar and three others prevented the said tower construction and also prevented the second respondent from discharging his duty. Further, it is alleged that the petitioner along with other accused illegally assembled and protested in front of the Police Station and demanded the release of the said Mohammed Sathar and three others. Further, the petitioner abused the second respondent in filthy language. Hence, the petitioners were charged for the offences under Sections 147 and 353 of the Indian Penal Code.



CrI.O.P.No.5135 of 2021

3. The learned counsel for the petitioner submitted that the petitioner along with other accused have protested peacefully and they have a right to do so. The impugned final report even if accepted to be true does not attract any of the offences alleged. The petitioner did not form any unlawful assembly. There is nothing in the impugned charge sheet to show that the petitioner had committed the offence of wrongful restraint.

4. Per contra, the learned Government Advocate appearing for the first respondent, submitted that one Mohammed Sathar and three others had caused disturbances during the Reliance Company cell phone tower construction without any valid permission and also prevented the second respondent from discharging his duty. He further submitted that the petitioner along with the other accused illegally assembled and protested in front of the Police Station and demanded the release of the said Mohammed Sathar and three others. They had prevented the public servants from discharging their duty. The learned Government Advocate, therefore submitted that the quash petition filed by the petitioner is liable to be dismissed.



CrI.O.P.No.5135 of 2021

5.As regards the offence under Section 147 of the Indian Penal Code, it is seen that the charge sheet does not state as to how the protest by the petitioner attracted the offence of rioting. There is no allegation in the charge sheet for the offence under Section 147 of the Indian Penal Code.

6. As regards the offence under Section 353 of the Indian Penal Code, this Court finds that there are no allegations in the charge sheet suggesting that the petitioner had obstructed, assaulted or used any criminal force to any public servant or prevented or deterred any public servant from discharging his public duty. The allegation that cell phone tower construction was prevented is only against the said Mohammed Sathar and others. Hence, the offence under Section 353 of the Indian Penal Code also is not made out against the petitioner.

7. For the above reasons, the act of the petitioner in protesting does not attract any of the offences alleged and hence, the charge sheet in C.C.No.34 of 2018, on the file of the District Munsif cum Judicial Magistrate, Mettupalayam and all further proceedings in Crime No.566 of 2014 is



Crl.O.P.No.5135 of 2021

quashed.

WEB COPY

8. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petitions are closed.

20.03.2023

Index: Yes/No

Speaking / Non Speaking Order

Nti

To

1. The District Munsif cum Judicial Magistrate,
Mettupalayam
2. The Inspector of Police,
Mettupalayam Police station,
Coimbatore.
3. The public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.5135 of 2021

SUNDER MOHAN, J

nti

Crl.O.P.No.5135 of 2021 and
Crl.M.P.Nos.3267 & 3268 of 2021

20.03.2023