



Crl.O.P.No.7096 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.7096 of 2023

and

Crl.M.P.Nos.4448 & 4451 of 2023

- 1.Dhanasekaran @ Dhanasekar
- 2.Govindarajan @ Govindhan
- 3.Vijayan
- 4.Devaraj
- 5.Goutham
- 6.Senthilkumaran @ Senthil
- 7.Janarthanam @ Jana
- 8.Thanusu
- 9.Sathish
- 10.Janakiraman
- 11.Elumalai
- 12.Narendhiran
- 13.Kuppusamy

...Petitioners / A1 to 13

-Vs-

The State Rep. by:
The Inspector of Police,
Sadras Police Station,
Chengalpattu District.
(Crime No.183 of 2022)

... Respondent / Complainant



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Prayer: Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, to call for records relating to the proceedings in C.C.No.05 of 2023 on the file of the learned District Munsif -cum- Judicial Magistrate, Thirukkazhukundram, Chengalpattu District and to quash the same.

For Petitioner	: Mr.K.Mohanraj
For Respondent	: Mr.S.Santhosh Govt. Advovate, (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the final report in C.C.No.05 of 2023 on the file of the learned District Munsif -cum- Judicial Magistrate, Thirukkazhukundram, Chengalpattu District, filed for the offence under Sections 143, 147, 341, 285 of IPC read with Section 151 of Cr.P.C.

2.It is alleged in the final report that the accused persons had assembled contrary to the orders passed by the Commissioner of Police



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in East Cost Road protesting against one Indiran, who had allegedly grabbed the lands of one Kuppusamy.

3.The learned counsel for the petitioners would submit that the protest by the petitioners is sought to be given a criminal colour. The offence in the impugned final report even if accepted to be true does not attract any of the offences alleged. The petitioners did not form any unlawful assembly or obstructed, assaulted or used criminal force on any public servant. There is nothing in the impugned final report to show that the petitioners had committed the offences of wrongful restraint. Further, the charge sheet does not specify, as to what was the order promulgated and violated by the petitioners, in order to attract the alleged offences.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent, submitted that the petitioners had staged a protest and such protest was conducted without any valid permission. They had obstructed the traffic besides preventing the public servants from discharging their duty. Further, they had violated the orders passed by the Commissioner of Police, Chennai City, prohibiting such protest. The



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learned Additional Public Prosecutor, therefore submitted that the quash petitions filed by the petitioners are liable to be dismissed.

5.As regards the offence under Section 143 I.P.C., it is seen that the charge sheet does not state as to how the protest by the petitioners attracted the offence of unlawful assembly. A mere protest by a group of people would not amount to unlawful assembly. There is no allegation in the charge sheet for the offence under Section 143 I.P.C. Since the allegations do not constitute the offence of unlawful assembly as stated, the offence under Section 149 I.P.C., would not be made out.

6.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 petitioners attracted the offence of rioting. There is no allegation in the charge sheet for the offence under Section 147 of the Indian Penal Code.

7.As regards the offence under Section 341 I.P.C., this Court in similar circumstances held that in *Jeevanandham and others vs. State*



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reported in **2018 SCC online Mad 13698 : (2018) 2 LW (Cri) 606** that merely because an hindrance is caused to the movement of general public for sometime due to a protest, the said act would not attract an offence of wrongful restrain. Hence, the offence under Section 341 I.P.C., is not made out.

8.As regards the offence under Section 285 of Indian Penal Code, there is no allegation in the impugned charge sheet to attract the said offence. One cannot infer rashness or negligence to endanger human life, on the part of the petitioners on the basis of the allegations in the impugned charge sheet. Hence, the offence under Section 285 of the Indian Penal Code, is not made out.

9.For the above reasons, the protest by the petitioners cannot be said to attract any of the offences alleged and hence, the impugned charge sheet is quashed.

10.Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

31.03.2023

smv

Index : Yes/No

Speaking/Non Speaking order



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To,

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- 1.The Inspector of Police,
Sadras Police Station,
Chengalpattu District.
- 2.The Public Prosecutor,
High Court of Madras.
- 3.The District Munsif -cum- Judicial Magistrate,
Thirukkazhukundram,
Chengalpattu District



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SUNDER MOHAN,J.

smv

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