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CrI.O.P.No.7787 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

CrI.O.P.No.7787 of 2023

- 1.Abupakkar Sithik @ Abubakkar Sithik
 - 2.Abdul Kani @ Abdul Gani
 - 3.Sajakhan @ Shajahan
 - 4.Muhamed Isath @ Mohamed Esak
 - 5.Pakeer Muhamed @ Fackir Mohamed
- ... Petitioners

Vs.

- 1.State rep. by
Sub-Inspector of Police,
Perambalur Police Station,
Perambalur.
(Crime No.733 of 2019)

- 2.Karthikeyan
- ...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Criminal Procedure Code to call for the records and quash the F.I.R. registered in Cr.No.733 of 2019 by the respondent Police in so far as it relates to the petitioners.

For Petitioners : Mr.A.Rajamohamed



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For Respondents : Mr.S.Santhosh
Government Advocate (Crl.Side)
for R1

ORDER

This Criminal Original petition has been filed to call for the records and quash the proceedings as against the petitioners and other accused in Crime No.733 of 2019 pending on the file of the first respondent Police for the offences under Sections 143, 341 and 283 of I.P.C.

2. The allegation in the FIR indicates that on the wake of verdict pronounced by the Supreme Court of India in the Babri Masjid case, the petitioners along with other accused have illegally assembled and protested in public road without any proper permission with the slogan “Babari Verdict. Denial of Justice. Speak up for Justice.” and thereby, the present First Information Report has been registered.

3. The learned counsel for the petitioners submitted that the prosecution has been launched with false allegations and even if the entire prosecution case is taken at face value, the same would not constitute any



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offence and continuing the prosecution is nothing but abuse of process of law. Therefore, submitted that the same may be quashed.

4. The Learned Additional Public Prosecutor submitted that the accused unlawfully assembled and caused disturbance to the public, thereby, they have been prosecuted, and hence, prayed for dismissal of the quash petition.

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.

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



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wrongful restrain. Hence, the offence under Section 341 I.P.C., is not made out.

7. As regards the offence under Section 283 of the Indian Penal Code, the allegations in the impugned final report does not satisfy the ingredients of the said offence.

8. 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.

9. Accordingly, this Criminal Original Petition is allowed.

11.04.2023

Index :Yes/No
Internet:Yes/No
Neutral Citation Case: Yes/No
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To

1.State rep. by
Sub-Inspector of Police,
Perambalur Police Station,
Perambalur.

2.The Public Prosecutor,
High Court of Madras.



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SUNDER MOHAN, J.

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