



WEB COPY

Crl.O.P.No.22100 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2023

CORAM :

THE HONOURABLE Dr. JUSTICE G.JAYACHANDRAN

Crl.O.P.No.22100 of 2023

and

Crl. M.P. Nos.15357 & 15358 of 2023

- 1.Muthukrishnan
- 2.Sagadhevan
- 3.Vadivel
- 4.Kumar
- 5.Balaramesh
- 6.Murugan
- 7.Sakthivel
- 8.Panneer
- 9.Sivalingam
- 10.Sathiyaseelan
- 11.Sathishkumar
- 12.Vignesh
- 13.Ramalingam
- 14.Nagaraj
- 15.Vivek
- 16.Veeramani
- 17.Suresh
- 18.Prasanth
- 19.Vaithiyanathan
- 20.Jayaraman
- 21.Thandapani
- 22.Prasath
- 23.Manikandan
- 24.Barathy
- 25.Chakkaravarthy
- 26.Selvakumar
- 27.Mani



- 28.Chakkarapani
- 29.Kanniyappan
- 30.Anbazhagan
- 31.Jayakanth
- 32.Palaniyammal
- 33.Chinnaponnu
- 34.Vasanthi
- 35.Vijayalakshmi
- 36.Periyanayagi
- 37.Gandhimathi
- 38.Chinnaponnu
- 39.Kumudham
- 40.Gowri
- 41.Shanthi
- 42.Chithra
- 43.Dhanabakkiyam
- 44.Nagalakshmi
- 45.Saraswathi
- 46.Anitha
- 47.Banu
- 48.Vimala
- 49.Papathi
- 50.Nagammal
- 51.Lakshmi
- 52.Thaiyalnayagi
- 53.Vijaya

... Petitioners

-VS-

- 1.State by
Inspector of Police,
Cuddalore OT Police Station,
Cuddalore.
(Crime No.288/2016)

- 2.Seenibabu
...Respondents



PRAYER : Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records of the Charge Sheet in S.T.C. No.214 of 2017 on the file of the learned Chief Judicial Magistrate No.II, Cuddalore so far as these petitioners are concerned and quash the same.

For Petitioner : Mr.K.Balu
For Respondents : Mr.S.Udaya Kumar,
Government Advocate (Crl.Side)

ORDER

The petitioners are 53 in number are before this Court to quash the criminal case pending against them in S.T.C. No. 214 of 2017. The final report against these petitioners indicates that on 13.05.2016, eve of general election in the Kurinchipadi Assembly Constituency, these petitioners gathered and protested against disbursement of money to the voters by the rival political party. Since there was promulgation of Section 30 of the District Police Act, 1861 and there was unlawful gathering causing disturbance to the public restraining their free movements, Inspector of Police, has registered a case under Sections 143, 188, 341 of IPC in Crime No.288 of 2016 and on completion of investigation, the final report has been filed.

2. The learned counsel for the petitioner submitted that it was a democratic protest against the disbursement of money for vote. The public gathered insisting the police to take action against the persons who were



disbursing money for vote, instead of taking action against them, this case has been foisted against these petitioners to expose the cause of protecting the democratic process.

3. The learned counsel for the petitioner submitted that the complaint suffers procedural irregularity and the trial Court ought not to have taken cognizance of offence under Section 188 IPC, without following the procedures contemplated under Section 195 of the Cr.P.C. In support of his arguments, the learned counsel for the petitioner also relied upon the judgment of this Court rendered in *Jeevanandham and others Vs. State* (2018 SCC Online Mad 13698: (2018) 2 LW (Crl) 606.

4. The learned Government Advocate (Crl.Side) submitted that apart from Sections 143 & 188 of IPC, charges is also under Section 341 of IPC and therefore, even if there is any procedural irregularity in taking cognizance of offence under Section 188 IPC, for the other two charges since the trial Court competent of taking cognizance, it cannot be questioned and therefore, the final report has to sustain.

5. The alleged act of crime has emanated when there was protest by the public to take action against the persons who were distributing the cash for vote. In the course of the protest, it appears that public and the free flow of traffic were disturbed. The Inspector of Police who has set the criminal law into



motion able to identify the participants in the protest, since the first accused being one of the contestant and others are members of the party to which, the first accused belongs.

6. Incidentally, it is also to be noted that the persons who alleged to have been distributing money were from the then Ruling party. It is true that there was promulgation under Section 30 of the District Police Act, 1861, restriction and gathering more than 5 persons. However, the agitation in which the petitioners been involved a spontaneous one to sensitize the police to take action against the persons who were distributing the money to purchase vote. Instead of the taking action against the persons who are violating the code of conduct, the police has thought fit to rattle the democratic expressions viewed by the petitioners herein.

7. This Court finds that the entire prosecution is a malicious prosecution with ulterior motive to cover up the inaction on the side of the Police. besides the infirmity in taking cognizance without sanction of Section 195 Cr.P.C and out of malicious. Hence, this quash petition is allowed. Connected Miscellaneous Petitions are closed.

03.11.2023

Internet : Yes/No
Index : Yes/No



WEB COPY

Crl.O.P.No.22100 of 2



Dr.G.JAYACHANDRAN, J.

rkp

To

1. The Chief Judicial Magistrate No.II,
Cuddalore.
2. The Inspector of Police,
Cuddalore OT Police Station,
Cuddalore.
3. The Public Prosecutor,
Madras High Court, Madras.

Crl.O.P.No.22100 of 2023
and
Crl. M.P. Nos.15357 & 15358 of 2023

03.11.2023