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CrI.O.P.No.10700 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 10.05.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrI.O.P.No.10700 of 2023

and CrI.M.P.No.6787 of 2023

Abdul Rahman

... Petitioner

Vs.

The State Rep. by

The Sub Inspector of Police,

Mayiladuthurai Police Station,

Nagapattinam District

(Crime No.251 of 2022)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.251 of 2022 dated 29.03.2022 on the file of the Respondent Police and quash the same as against the petitioner.

For Petitioner : M/s.H. Thameen Ansari

For Respondent : Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the records



in Crime No.251 of 2022 dated 29.03.2022 on the file of the respondent police and quash the same.

2. It is alleged in the impugned F.I.R that on 29.03.2022 when the defacto complainant was doing their patrolling duty near Kittappa Angadi, the petitioner along with some other Union leaders were protesting and raising slogans against the hike of excise duty on petrol and diesel products and to return back the amendment of the Labour Welfare Act enacted by the Central Government and State Government and pass resolution against the bill and committed the offence under Sections 143 and 341 of IPC.

3. The learned Counsel appearing for the petitioner would submit that the impugned F.I.R is an abuse of process of law and there is no specific allegation as against the petitioner. Hence he prays to allow this petition.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent, submitted that the petitioner along with others 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 learned Additional Public Prosecutor, therefore submitted that the quash petition filed by the petitioner is liable to be dismissed.

5.As regards the offence under Section 143 I.P.C., it seen that the charge sheet does not state as to how the protest by the petitioner 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 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 wrongful restrain. Hence, the offence under Section 341 I.P.C., is not



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made out.

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

8. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petition is closed.

10.05.2023

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To

1.The Sub Inspector of Police,
Mayiladuthurai Police Station,
Nagapattinam District.

2.The Public Prosecutor
High Court of Madras,
Chennai – 600 104.



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SUNDER MOHAN. J.

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10.05.2023