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CrI.O.P.No.12369 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

CrI.O.P.No.12369 of 2021 and
CrI.M.P.Nos.6911 & 6912 of 2021

1.SB.Syed Jeelan
2.Syed Samsudeen
3.Mohammed Uvaise
4.Abdul Salam
5.Shabbeer Basha
6.Abdul Hakkim ... Petitioners/Accused 13-18

/vs/

1.State through the Inspector of Police,
Kitchipalayam Police Station, Salem City.
(Cr.No.229/2020) ... Respondent/Complainant

2.M.Sekar ... Respondent/defacto Complainant

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the records and quash the charge sheet in STC No.2279 of 2020 on the file of the Judicial Magistrate – II, Salem and quash the same.

For Petitioners	...	Mr.Rahman Sherieff for Mr.P.Murugesan
For Respondents	...	Mr.A.Gopinath, Govt. Advocate (CrI.Side) for R1



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ORDER

This Criminal Original Petition has been filed to call for the records and quash the charge sheet in STC No.2279 of 2020 on the file of the Judicial Magistrate – II, Salem and quash the same.

2. Heard the learned counsel for the petitioners and the learned Government Advocate (CrI.Side) appearing for the first respondent.

3. The petitioners are the accused A13 to A18. The case of the prosecution as it appears from the records is that the petitioners along with the other accused have violated the norms of lock down already declared. It is alleged that on 22.03.2020 at about 10.00 p.m., the Village Administrative Officer on information came to know that some foreigners belonging to the Country of Indonesia were staying at Sooramangalam Rahmath Nagar Masjid and they travelled in groups without observing the social distance and thus instrumental in spreading the Covid-19 Disease. When the accused A1 to A18 were asked to go to the Government Hospital, they refused to go there and developed a wordy quarrel and thereby prevented the public officials from doing public duty.



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3.1. After investigation, the charge sheet has been filed and the accused have been charged for the offences under Sections 269, 270, 278 & 353 of IPC. The case registered against the accused A1 to A12 got split and they have admitted their guilt and paid the fine amount. The present petitioners who are accused A13 to A18 have filed this petition to quash the proceedings.

4. The learned counsel for the petitioners submitted that the Government Order for implementing the lock down was issued only with effect from 24.03.2020; but the occurrence had occurred on 22.03.2020 during which time there was no lock down; the petitioners did not violate any Covid-19 norms; the facts have been exaggerated and they have been falsely implicated in this case.

5. The learned Government Advocate (Crl.Side) submitted that during the relevant point of time it was the first wave of the pandemic and hence it was at the peak; many guidelines have been issued to the public to get isolated, tested and keep social distance; despite the same, the



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petitioners conducted themselves in an irresponsible manner and they spread the corona virus to others.

6. From the charge sheet, it cannot be known whether the petitioners have anywhere convened any meeting and only because of that they were found in groups at the time when they were noticed. Though in the FIR it is stated that the accused had gathered together to spread the Islamic religion, the charge sheet does not mention anything about the same. The only allegation is that the petitioners along with the foreigners were staying in group in a Masjid and thereby they had violated the Covid-19 norms. Nothing on record to show that the foreigners had travelled to India for any specific purpose. While the FIR says that the foreigners have come to India by violating the VISA rules, no charge has been made against them on that score. The offences for which the FIR was registered at that point of time are all bailable offences. There is no materials produced on record to show that in view of the petitioners' stay at the Masjid, they had spread Covid-19 disease to any other specific individual.



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7. The further allegations is that the petitioners refused to come for medical examination and thereby prevented the public officials from executing their work. But it was the time when the Covid-19 was at its peak and everyone including the petitioners have no idea about the disease and people afraid to go to hospital to get themselves tested. Since no one got any concrete idea about the disease, its development and treatment, people got scared that they would be isolated and in that case they may not be able to mingle with the dear and near ones in case something happens. So the intention cannot be to prevent the public officials from executing the work. But it was due to the fear and confusion in the minds of the every individual including the petitioners.

8. Since I cannot find any deliberate violation and the petitioners did not have any intention to prevent the public officials, I feel it is unnecessary to subject the petitioners to undergo the ordeal of trial. Since normalcy is restored and things have gone back to what they were before pandemic and the Government had also withdrawn many cases which was booked



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against several individuals for not observing social distance etc., I feel some

lenience can be shown to these petitioners.

9. In view of the same, this Criminal Original Petition is allowed and the proceedings in STC No.2279 of 2020 on the file of the Judicial Magistrate – II, Salem, is quashed. Consequently, connected miscellaneous petitions are closed.

Index: Yes/No
Internet: Yes/No
gsk

12.01.2023



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To
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- 1.The Inspector of Police,
Kitchipalayam Police Station,
Salem City.
- 2.The Judicial Magistrate – II,
Salem.
- 3.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA ,J.

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