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Crl.O.P.No.10783 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.05.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.10783 of 2023

and

Crl.M.P. No. 6817 of 2023

Arthurkumar @ Malaravan

... Petitioner

Vs.

1.State rep. by,
The Inspector of Police
Rathinapuri Police Station
Coimbatore District.
(Crime No.1314 of 2021)

2.Kasthuri

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the FIR in crime No.1314 of 2021 on the file of the 1st respondent and quash the same.

For Petitioner : Mr. D.Veerasekharan

For Respondent 1 : Mr.E.Raj Thilak
Additional Public Prosecutor

For Respondent 2 : No Appearance



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ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.1314 of 2021 for the offences under Sections 143, 341 and 269 of IPC.

2.It is alleged in the FIR that the petitioner and 16 others jointly gathered near Gandipuram, Coimbatore and condemned the action of Kerala State Police for the arrest of the Forest Officials belonged to the Government of Tamil Nadu, and hence committed the offences under Sections 143, 341, and 269 IPC.

3.The learned counsel for the petitioner submitted that the petitioner protested peacefully and they have a right to do so. The impugned FIR even if accepted to be true does not attract any of the offences alleged. The petitioner did not form any unlawful assembly or obstructed, assaulted or used criminal force on any public servant. There is nothing in the impugned FIR to show that the petitioner had committed the offence of wrongful restraint. Further, the FIR does not specify as to what was the order



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promulgated and violated by the petitioner in order to attract the alleged offences.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent, submitted that the petitioner 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 FIR does not state as to how the protest by the petitioner and others 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 FIR 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.



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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 made out.

7.As regards the offence under Section 269 I.P.C., it is seen that the allegations in the FIR do not suggest that the petitioner was guilty of any unlawful or negligent act which is likely to spread the infection of any dangerous disease. Hence, the offence under Section 269 IPC is not made out.

8. For the above reasons, the protest by the petitioner cannot be said to attract any of the offences alleged and hence, the impugned FIR is quashed.



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9. Accordingly, the Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petitions is closed.

10.05.2023

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

dsa/jv

To

1. The Inspector of Police
Rathinapuri Police Station
Coimbatore District.
2. The Public Prosecutor,
High Court of Madras, Chennai.



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SUNDER MOHAN. J.

dsa/jv

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