



Crl OP No. 11121 / 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.05.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No. 11121 of 2023

and

Crl.M.P. No. 6985 of 2023

P. Arunkumar

... Petitioner

Versus

1.State by

Inspector of Police

Ariyalur Police Station

Ariyalur District.

(Crime No. 555 of 2017)

2. R. Ravichackaravathy

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the First Information Report in Crime No. 555 of 2017 on the file of the Inspector of Police, Ariyalur as against the petitioner.

For Petitioner : Mr. M. Mathanraj.

**For Respondents : Mr. E. Raj Thilak,
Additional Public Prosecutor.**



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Crl OP No. 11121 / 2023

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No. 555 of 2017 on the file of the first respondent police.

2.It is alleged in the charge sheet that on 31.10.2017, the petitioner along with the other accused, belonging to Akhil Bharathiya Vidyarthi Parishad (ABVP) were doing their condemnation in front of Anna Statue, Ariyalur as against the death of hindu leaders in Kerala and hence committed the offences under Sections 143 and 188 of the Indian Penal Code.

3.The learned counsel for the petitioner submitted that the petitioner protested peacefully and they have a right to do so. The impugned final report 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 charge sheet to show that the petitioner had committed the offence of wrongful restraint. Further, the charge sheet does not specify as to what was the order promulgated and violated



Crl OP No. 11121 / 2023

by the petitioner in order to attract the alleged offences.

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4. Per contra, the learned Additional Public Prosecutor appearing for the respondents, 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, Ariyalur District, 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 is 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 of the Indian Penal Code.

6. As regards the offence under Section 188 of the Indian Penal Code the first respondent / police has no jurisdiction to lay a final report



Crl OP No. 11121 / 2023

for the offence under Section 188 of the Indian Penal Code in view of the bar under Section 195 (1)(a)(i) of the Criminal Procedure Code. As per the Section 195 (1)(a)(i) of the Criminal Procedure Code, only a public servant can maintain a complaint and no Court shall take cognizance in the absence of the complaint filed by the said public servant.

7. 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.

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

11.05.2023

ay/nsd

Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

To

1. The Inspector of Police
Ariyalur Police Station
Ariyalur District.



Crl OP No. 11121 / 2023

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

SUNDER MOHAN, J

ay

Crl.O.P. No. 11121 of 2023
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Crl OP No. 11121 / 2023

11.05.2023