



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P Nos.19588 of 2022 and 4309 of 2023
and Crl.MP.Nos.2739 & 2740 of 2023

Crl.OP.No.19588 of 2022

Palanisamy alias Pongalur Palanisamy

... Petitioner/Accused No.1

.VS.

1.Union of India Rep.by
The Assistant Sub-Inspector
Railway Protection Force
Coimbatore.
Crime No.293 of 2018

..1st Respondent/Complainant

2.D.Chidambaram
Sub-Inspector of Police
Railway Protection Force
Coimbatore District.

..2nd Respondent/de facto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.740 of 2019, on the file of the learned Judicial Magistrate No.I, Coimbatore and quash the same.

For Petitioner : Mr.N.R.Elango
Senior Counsel
for Mr.G.R.Deepak

For Respondents : Mr.P.T.Ramkumar
Standing Counsel for R1



Crl.OP.No.4309 of 2023

1.Rajendiran

2.K.C.V.Thamarai Kannan

3.T.M.Selvaganapathi

4.R.V.Subramani

5.Santha Moorthy

6.S.Rajendiran

7.G.Pandiyan

8.M.S.Raja

9.P.Sakthivel

10.M.Nazar Khan

... Petitioners/Accused 1-9 & 11

vs.

State Rep.by
Sub Inspector
Railway Protection Force
Salem Junction.

..Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.231 of 2019 on the file of the learned Judicial Magistrate No.I, Salem and quash the same.

For Petitioners : Mr.N.R.Elango
Senior Counsel
for Mr.A.S.Aswin Prasanna

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



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COMMON O R D E R

These quash petitions have been challenging the proceedings pending before the Court below for offence u/s.147, 174(a), 145(b) and 146 of the Railway Act, 1989.

2.The case of the prosecution is that all the accused persons belonging to a political party had trespassed into railway track and had squatted on the track in front of railway engine. These persons were raising slogans against the Central Government to safeguard the rights of the State of Tamil Nadu and to constitute Cavery Management Board.

3.In CrI.OP.No.4309 of 2023, it is stated that there are 11 named accused persons and 741 unidentified persons belonging to the political party, who had committed the offence. Insofar as CrI.OP.No.19588 of 2022, is concerned, it is alleged that nearly 255 persons belonging to a political party including 62 ladies had committed the offence. Ultimately, the final report has been filed only as against 11 named accused persons in CrI.OP.No.4309 of 2023 and 11 accused persons in CrI.OP.No.19588 of 2022.

4.Heard Mr.N.R.Elango, learned Senior Counsel for the petitioner in both criminal original petitions, Mr.P.T.Ramkumar, learned Standing Counsel for R1 in CrI.OP.No.19588 of 2022 and Mr.E.Raj Thilak, learned Additional Government Pleader



for respondent in Crl.OP.No.4309 of 2023

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5.The issue in hand is clearly covered by the earlier Order passed by this Court under similar circumstances in Crl.OP.No.10471 of 2022, dated 28.6.2022. For proper appreciation, the relevant portions in the order are extracted hereunder:

2.The allegations against the petitioners in the final report is that the petitioners along with others unlawfully assembled and made protest for constituting Cauvery Management Board as per the judgment of the Hon-ble Apex Court and suddenly squatted on the centre of the railway track and obstructed the train. Hence, the 1st respondent Police has registered a case in Crime No.1343 of 2016, for offence under Sections 147 and 174(1) of Railways Act, 1989. On completion of investigation, charge sheet has been filed before the learned Judicial Magistrate No.I, Thiruvannamalai.

3.Heard the learned Senior Counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the 1st respondent Police.

4.In this case, the charge sheet has been filed against the petitioners and others for offence under Sections 147 and 174(1) of Railways Act, 1989. If any person willfully obstructs or prevents any railway servant in the discharge of his duties, will be punishable under Section 146 of the Railways Act, 1989. Similarly, Section 174 of the Railways Act, 1989 deals with obstructing running of train by any person.



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5. On perusal of the entire charge sheet, it is seen that a group of 500 people assembled and squatted in the centre of the railway track and made protest demanding to constitute Cauvery Management Board as per the judgment of the Hon-ble Apex Court. Though they made such democratic protest, their act will not amount to trespass and obstruct running train. Further, the final report has been filed merely indicating that a group of 500 people gathered and made a protest. Except naming few, their identity has not been established.

6. In such view of the matter, forcing the entire accused to face the trial, without proper identity, is futile exercise on the part of the prosecution. The entire allegations made in the charge sheet, even if taken at face value, do not prima facie constitute any offence or make out a case against the accused.

6. The above order will squarely cover the facts of the present case. In fact, this Court had interfered in the criminal prosecution against the persons who had carried out the protest for the very same cause. The reasoning given in the above Order will also apply to the present case also.

7. In the light of the above discussion, the continuation of the proceedings as against the accused persons will result in an abuse of process of Court which requires the interference of jurisdiction u/s. 482 of Cr.PC. Accordingly, the proceedings in C.C.No.740 of 2019, on the file of the Judicial Magistrate No.I, Coimbatore and C.C.No.231 of 2019, pending on the file of the learned Judicial Magistrate No.I, Salem is quashed in entirety.



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8. Accordingly, both the criminal original petitions stand allowed.

Consequently, connected miscellaneous petitions are closed.

03.08.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

- 1.The Assistant Sub-Inspector
Railway Protection Force
Coimbatore.
- 2.Judicial Magistrate No.I
Coimbatore
- 3.Judicial Magistrate No.I
Salem.
- 4.D.Chidambaram
Sub-Inspector of Police
Railway Protection Force
Coimbatore District.
- 5.Sub Inspector
Railway Protection Force
Salem Junction.
- 6.The Public Prosecutor,
High Court of Madras,
Madras.



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N. ANAND VENKATESH., J

KP

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