



Crl.O.P.No.20127 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

**Crl.O.P.No.20127 of 2020
and Crl.M.P.Nos.8346 and 8347 of 2020**

T.Velmurugan

.. Petitioner

Versus

**1. State Rep. by
The Station House Officer,
Ulundurpet Police Station,
Villupuram District. (Cr.No.286 of 2018)**

2. T.Janani

.. Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in connection with the P.R.C.No.4 of 2020 on the file of the learned Judicial Magistrate Court No.I, Ulundurpet, Villupuram District and quash the same so far as the petitioner is concerned.

**For Petitioner : Mr.V.Raghavachari,
Senior Counsel,
for Mr.K.Gandhi Kumar**

**For Respondents : Mr.E.Raj Thilak,
Additional Public Prosecutor,
for R1**



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: Mr.S.Sivakumar, for R2

ORDER

This petition has been filed to quash the proceedings in P.R.C.No.4 of 2020 on the file of the learned Judicial Magistrate Court No.I, Ulundurpet, Villupuram district.

2. The case of the prosecution is that on 01.04.2018 at about 10.00 A.M, the cadres belonging to a particular political party made an agitation near Trichy - Chennai Highway demanding the Central and State Governments to form Cauveri Management Board and also against collecting toll charges. The Police is said to have informed the persons who had gathered to disperse from the place. Thereafter, on the instigation of the petitioner (A1), the party cadres are said to have damaged the property in the toll booth and had also caused a ruckus. Based on the complaint given by the second respondent who is the Public Relation Officer in Sengurichi toll plaza and Thozhudur toll plaza, an F.I.R came to be registered in Crime No.206 of 2018 for offences under Sections 147, 148, 353, 341, 427 and 149 of I.P.C and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992.



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3. The investigation was taken up and ultimately, a Final Report came to be filed before the Court below which was taken on file in P.R.C.No.4 of 2020. Cognizance was taken for offences under Sections 147, 148, 341, 353, 427 of I.P.C and Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 read with Section 147 of I.P.C as against fourteen accused persons. The petitioner was arrayed as A1 in the Final Report.

4. Heard Mr.V.Raghavachari, learned Senior Counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor for the first respondent and Mr.S.Siva Kumar, learned Counsel for the second respondent.

5. The main ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner is that the petitioner had participated in the agitation on 01.04.2018 and this agitation was done at some distance from the toll plaza and ultimately, the petitioner along with others were arrested and were boarded into a Police Van and were taken away to a



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Kalyana Mandapam. Thereafter, at about 12.30 P.M to 12.45 P.M, the incident had taken place and at that point of time, the petitioner was not even in the scene occurrence. The learned Senior Counsel therefore submitted that this vital fact has not been properly investigated by the respondent Police and in order to substantiate the same, the learned Senior Counsel placed reliance upon the affidavit that has been filed by the second respondent before this Court. The learned Senior Counsel placed reliance upon paragraph No.4 of the affidavit and for proper appreciation, the same is extracted hereunder:-

" 4. I submit that on that day ie 1-4-2018 the Ulundurpet Police were on bandobashth duty. More than 500 persons who are belong to "Tamizhaga Valzuraimai Katchi" were gathered some distance from the toll plaza and more than 100 police men were guarded them. Thereafter they made slogans against the Central and State Governments by demanding to form a Cavery Management Board and also to cancel the Toll FEE collections in Tamil Nadu. Within a few minutes, the police were arrested the persons who were agitated along with the petitioner and all were boarded into the police van and after moving the police vehicle, around 12.30 pm or 12.45 pm a mass of people gathered in toll plaza runway and suddenly they were open all the runway gates, when the said act was question by our workers, they started quarrel and attacked the toll gate and damaged the glass and computers worth about Rs.1,00,000/- Thereafter



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our Manager and Project Manager enquired with police who were all on bandobashth duty and prepared the complaint by our managers and the same was given to me to lodged the complaint before the Ulundurpet Police Station."

6. The learned Senior Counsel further submitted that the entire case is attended with malafides and the petitioner has been roped in the case just because he happens to be the leader of a political party.

7. Per *contra*, learned Additional Public Prosecutor, appearing on behalf of the respondent Police, submitted that there is eye witness account to the effect that the petitioner was there in the scene of occurrence and he had personally instigated his party cadres and as a consequence, the party cadres went on a violence spree and caused huge damage in the toll plaza. It is therefore submitted that whether the petitioner was present in the scene of crime is a question of fact and the same can only be proved / agitated during the course of trial. Accordingly, the learned Additional Public Prosecutor sought for dismissal of this petition.

8. The learned Counsel appearing on behalf of the second respondent stood by whatever has been stated in the affidavit before this Court.



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9. The crucial issue that has to be considered by this Court is as to whether the petitioner was present at the time of the alleged incident that took place on 01.04.2018 at about 11.25 A.M.

10. The second respondent who is the eye witness to the incident has categorically stated in the affidavit that the petitioner and others had gathered at some distance from the toll plaza and they raised slogans against the Central and State Governments. Within a few minutes, the petitioner and others were arrested and they were boarded in a Police Van and they were taken away. Thereafter, some persons had assembled and had caused a ruckus and thereby, huge damage was caused to the toll plaza.

11. In the light of the specific stand that is taken by the second respondent and also considering the materials placed before this Court, it is seen that the petitioner had in fact participated in the agitation in the beginning and the petitioner along with some of the party cadres were arrested and taken away in a Police Van. Thereafter, at about 11.25 A.M, the incident had taken place. In view of the same, the very presence of the petitioner in the scene of occurrence is highly improbable. The only charge against the petitioner is that he only instigated his party cadres to attack the



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toll plaza. If the petitioner's presence itself is doubtful, there is no question of the petitioner instigating his party cadres in the scene of occurrence.

12. In the light of the above discussion, the continuation of the proceedings as against the petitioner (A1) will result in abuse of process of Court which requires the interference of this Court in exercise of its jurisdiction under Section 428 of Cr.P.C. Hence, this Court is inclined to interfere with the proceedings insofar as the petitioner is concerned.

13. It is brought to the notice of this Court that the Court below had already committed the case to the file of the learned Principal Sessions Judge, Villupuram and it is now pending in S.C.No.370 of 2021. In view of the same, the proceedings in S.C.No.370 of 2021 on the file of the learned Principal Sessions Judge, Villupuram stands quashed insofar as the petitioner is concerned. The Sessions Court shall go ahead with the proceedings as against the other accused persons.

14. This Criminal Original Petition stands allowed. Consequently, connected miscellaneous petitions are closed.

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Index : yes/no



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Speaking order/Non-speaking order

Neutral Citation : yes/no

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N.ANAND VENKATESH, J.

grs

To

1. The Principal Sessions Judge,
Villupuram.
2. The Judicial Magistrate Court No.I,
Ulundurpet, Villupuram District.
3. The Public Prosecutor,
High Court of Madras.
4. The Station House Officer,
Ulundurpet Police Station,
Villupuram District.

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