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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.22755 of 2019

And

Crl.M.P.No. 11836 of 2019

S.Afroz Ahamed

... Petitioner/Accused No.1

Vs

1. The State Rep. by
The Sub Inspector of Police
G1 Vepery Police Station
Vepery, Chennai – 600 005.

... 1st Respondent/Complainant

2. Mr.S.Ramachandran

... 2nd Respondent/Defacto
Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records in C.C.No. 8529 of 2017 on the file of the II Metropolitan Magistrate Court at Egmore and quash the same.

For Petitioner : Mr. C.Kanagaraj

For 1st Respondent : Mr.A.Damodaran
Additional Public Prosecutor

**ORDER**

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This Petition is to quash the final report for the offences under Sections 143, 147, 341, 294(b), 332, 353, 506(i) of IPC read with Section 34 of IPC.

2. It is alleged in the final report that the accused along with two others had assembled and protested near the EB Office at EVK Sampath Road on 13.12.2016; that the said protest was because there was no power supply on account of the preceding cyclone; that in spite of the police man regulating the accused to disperse, the accused abused the police man and continued with the protest.

3. The learned counsel for the petitioner would submit that it is true that they had protested since there was a power cut. However, the other allegations with regard to threat and using abusive languages against the police are improbable and has been made to be falsely implicate the petitioner.

4. The learned Additional Public Prosecutor appearing for the first respondent would submit that the petitioner was in the habit of defining



lawful orders by the police and there are several cases pending against him.

In fact, there was history sheet opened against the petitioner. The learned Additional Public Prosecutor would further submit that the history sheet opened on 15.12.2016. There are several complaints against the petitioner.

5. As regards the offence under Section 143 of the Indian Penal Code, it is seen that the charge sheet does not state as to how the protest by the petitioners 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 147 of the Indian Penal Code, it is seen that the charge sheet does not state as to how the protest by the petitioners attracted the offence of rioting. There is no allegation in the charge sheet for the offence under Section 147 of the Indian Penal Code.

7. 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.

8. As regards the offence under Section 294 (b) of the Indian Penal Code, the allegations in the impugned final report does not suggest that any obscene words were uttered by the petitioners. Hence, the offence under Section 294 (b) of the Indian Penal Code is not made out.

9. As regards the offence under Section 332 of the Indian Penal Code, the impugned final report does not allege that the petitioners had caused hurt to any public servants in the discharge of his duty. Hence, the offence under Section 332 of the Indian Penal Code is not made out.

10. As regards the offence under Section 353 of the Indian Penal Code, this Court finds that there are no allegations in the charge sheet



suggesting that the petitioners had obstructed, assaulted or used any criminal force to any public servant or prevented or deterred any public servant from discharging his public duty. Hence, the offence under Section 353 of the Indian Penal Code also is not made out.

11. As regards Section 506 (i) of the Indian Penal Code, the allegation does not amount to real threat in order to attract the offence of Section 506 (i) of the Indian Penal Code.

12. For the above reasons, the protest by the petitioners cannot be said to attract any of the offences alleged and hence, the impugned charge sheet is quashed.

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

29.03.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



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SUNDER MOHAN. J.

vsg

To

1. II Metropolitan Magistrate Court at Egmore.
2. The Sub Inspector of Police
G1 Vepery Police Station
Vepery, Chennai – 600 005.
3. The Public Prosecutor,
High Court, Madras.

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