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Crl OP No. 25099 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 25099 of 2019
and

Crl.M.P. No. 13392 of 2019

1. Muthukumar @ Sun muthukumar

2. Ramesh Babu

3. Karthikeyan

4. Anandhakumar

5. Ponnusamy

... Petitioners

Versus

1. State rep., by
The Inspector of Police,
Tiruppur South Police Station
Tiruppur District.
(Crime No.697 of 2017)

2. Thennarasan

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records relating to the charge sheet in S.T.C. No.340 of 2018 on the file of learned Judicial Magistrate Court No.II at Tiruppur in Crime No.697 of 2017 on the file of the first respondent and quash the same for the petitioner is concern.

For Petitioners : Mr. S. Kumaradevan.



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For Respondents : Mr. A. Damodaran,
Additional Public Prosecutor for R1.
R2 – No appearance.

ORDER

This Criminal Original Petition is to quash the charge sheet in S.T.C. No.340 of 2018 on the file of learned Judicial Magistrate Court No.II at Tiruppur.

2.It is alleged in the charge sheet that the petitioners on 02.09.2017 staged a demonstration for the death of one student Anitha who committed suicide near Valarmathi Bus Stop situated near Tiruppur Municipality Road and burnt the effigy of the 'NEET Examination' by shouting slogans and requesting the State and Central Governments to scrap the NEET Examination and hence committed the offences under Sections 143, 188, 341 and 285 of the Indian Penal Code.

3.The learned counsel for the petitioners submitted that the petitioners 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 petitioners did not form any unlawful assembly or obstructed, assaulted or used criminal force on any public



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servant. There is nothing in the impugned charge sheet to show that the petitioners had committed the offence of wrongful restraint.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent, submitted that the petitioners 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 petitioners is liable to be dismissed.

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 188 of the Indian Penal Code the first respondent / police has no jurisdiction to lay a final report



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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. As regards the offence under Section 341 of the Indian Penal Code, 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 restraint. Hence, the offence under Section 341 of the Indian Penal Code, is not made out.

8. As regards the offence under Section 285 of I.P.C., there is no allegation in the impugned charge sheet to attract the offence under Section 285 of I.P.C. One cannot infer rashness or negligence to endanger human life, on the part of the petitioners on the basis of the allegations in the impugned charge sheet. Hence, the offence under Section 285 of I.P.C., is not made out.



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9. For the above reasons, the act of the petitioners in protesting does not attract any of the offences alleged and hence, the charge sheet in S.T.C. No.340 of 2018 on the file of learned Judicial Magistrate Court No.II at Tiruppur is quashed.

10. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

08.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Inspector of Police,
Tiruppur South Police Station
Tiruppur District.
2. The Judicial Magistrate No.II,
Tiruppur.
3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.



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SUNDER MOHAN, J

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