



CrI OP No. 25188 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 08.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 25188 of 2019
and
CrI.M.P. No. 13451 of 2019

1. Muthukumar @ Sun muthukumar
2. Ramesh Babu
3. Arivarasu
4. Dinesh
5. Selvapandiyan
6. Archunan
7. Sathish Kumar
8. Seenivasan
9. Sankar
10. Anantha Kumar
11. Karthick Kumar
12. Arumugam
13. Karuppusamy
14. Viduthalai Selvan
15. Nagaraj
16. Jeganathan
17. Duraiyan
18. Radhakrishnan



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19. Avinashiyappan

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20. Nagaraj

... petitioners

Versus

1. State rep., by
The Inspector of Police,
Tiruppur South Police Station
Tiruppur District.
(Crime No.78 of 2018)

2. Sam Albert

... 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 filed before the learned Judicial Magistrate Court No.II at Tiruppur in S.T.C. No.1203 of 2019 and quash all further proceedings in Crime No.78 of 2018 on the file of the first respondent.

For petitioners : Mr. S. Kumaradevan.

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.1203 of 2019 on the file of learned Judicial Magistrate Court No.II at Tiruppur.



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2. It is alleged in the charge sheet that the petitioners on 26.01.2018, the petitioners assembled unlawfully and protested as against Kanchi Pontiff namely Vijeyandra Saraswathi Swamigal who failed to give due respect to the Tamil Anthem, when it was sung. Further, it is alleged that the petitioners had violated orders passed by the City Police. Hence the petitioners had committed the offences under Sections 143 and 341 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. 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 first respondent, submitted that the petitioners had staged a protest and such protest was conducted without any valid permission. They had



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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 341 of the Indian Penal Code, this Court in similar circumstances held 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.



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7. 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.1203 of 2019 on the file of learned Judicial Magistrate Court No.II at Tiruppur and all further proceedings in Crime No.78 of 2018 is quashed.

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



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2. The Judicial Magistrate No.II,
Tiruppur.

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3. The Additional Public Prosecutor,
High Court of Madras,
Chennai.

SUNDER MOHAN, J

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