



Crl.O.P.No.25873 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.25873 of 2023

and

Crl.M.P.No.17959 & 17960 of 2023

1.N.Anbumani
2.S.Vijay
3.Santhosh @ Vignesh
4.Kotti @ Gopi
5.Ramesh

... Petitioners

Vs.

1.The Sub-Inspector of Police,
Ariyur Police Station,
Vellore District.

2.Dhanasekaran,
VAO, No.61, Thellur Village,
Anaicut T.K.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the Charge Sheet pending on the file of the Judicial Magistrate No.I, Vellore in S.T.C.No.859 of 2021 filed by the respondent herein and quash the same.

For Petitioners : Mr.V.Karthick

For R1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



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Crl.O.P.No.25873 of 2020



ORDER

The petitioners who are members of the communal organisation had conducted a protest on 14.07.2019 between 17.00 hours and 17.10 hours near Mahalakshmi bakery on the junction of Oosur to Sivanathapuram road.

2. The Village Administrative Officer of the village has given a written complaint to the respondent police about the unlawful assembly and protest causing wrongful restrain to the public. A case has been registered in Crime No.238 of 2019 for offence under Sections 143 and 341 IPC. After completion of investigation, the Investigating Officer thought fit that no offence under Section 143 IPC is made out, therefore, filed final report for offence under Section 341 IPC alone. Same has been taken cognizance by the Judicial Magistrate-I, Vellore in S.T.C.No.859 of 2021. Questioning the cognizance taken by the Judicial Magistrate No.I, Vellore, the present petition is filed to quash.

3. On perusal of the 161 Cr.P.C., statements of the witnesses, the police on perusal of the final report and the documents relied by the



prosecution, this Court finds that the prosecution rely upon 8 witnesses listed along with the final report. Perusal of the 161 statements of these witnesses does not whisper anything about the wrongful restrain, but only say that there was disturbance to the traffic and public for 10 minutes between 5.00 p.m, and 5.10 p.m.

Section 341 IPC reads as below:-

***Punishment for wrongful restraint.** It says- 'Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both. '*

4. Punishment for wrongful restrain and Section 339 IPC defines what is wrongful restrain which reads as below:-

***Wrongful restraint.**—Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.*

(Exception)—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct,



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Crl.O.P.No.25873 of 2023

is not an offence within the meaning of this section. Illustration A obstructs a path along which Z has a right to pass. A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

5. None of the 8 witnesses who have been cited as witnesses for prosecution say about any obstruction preventing any person from proceeding in any direction in which that person has a right to proceed. The ingredient to attract offence under Section 339 IPC as defined under IPC requires voluntary obstruction of any person so as to prevent that person in any direction in which that person has a right to proceed.

6. In the absence of the said twin requirement, prosecution under Section 341 IPC cannot sustain. Therefore, this Criminal Original Petition to quash is allowed. Consequently, the connected Crl.M.Ps are closed. S.T.C.No.859 of 2021 pending on the file of the Judicial Magistrate No.I, Vellore stands quashed.

29.11.2023

Index : Yes/No
Neutral Citation : Yes/No
rpl



Crl.O.P..No.25873 of 2023

To

WEB COPY

1.The Judicial Magistrate No.I, Vellore.

2.The Sub-Inspector of Police,
Ariyur Police Station,
Vellore District.

3.The Public Prosecutor,
High Court of Madras,
Chennai – 600 104.



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Crl.O.P.No.25873 of 2023

Dr.G.JAYACHANDRAN,J.

rpl

Crl.O.P.No.25873 of 2023

29.11.2023