



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.28991 of 2019

And

Crl.M.P.Nos. 17608 & 17610 of 2019

1. Suvan
2. Saravanan
3. Nedunchezhiyan
4. Muthukumar
5. Ganesh
6. Rajasekar
7. Prakash
8. Senthilkumar
9. Venkatesh
10. Manohar
11. Vijay
12. Rajesh
13. Ramu
14. Madhivan



29. Bharathithasan
30. Veeramani
31. Premkumar
32. Venkatesh
33. Gokulakrishnan
34. Kamal
35. Ezhumalai
36. Nagarajan
37. Nataraj
38. Krishnan

... Petitioners/Accused

Vs

1. The State rep. by
Inspector of Police
F2 Egmore Police Station
Egmore, Chennai – 600 008
(On the file of Cr.No. 1100/2011)

2. Ms. Pushpa Mari

...Respondents

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., to call for the record and quash the final report filed by the respondent in PRC 111/2012 pending on the file of XIV Metropolitan Magistrate Court No.II, Egmore, Chennai.



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ORDER

This Criminal Original Petition has been filed to call for the record and quash the final report in PRC 111/2012 pending on the file of XIV Metropolitan Magistrate Court No.II, Egmore, Chennai.

2. It is alleged in the charge sheet that on 01.08.2011 there was a campaign organised by the petitioners' organisation, namely, “Revolutionary Students Youth Front – (RSYF)” by demanding the Government to implement the “Samacheer Kalvi Scheme” and the petitioners assembled unlawfully and participated in road roko agitation by disturbing the traffic, disobeying the proclamation order passed by the police officials, and hence committed the offences under Sections 143, 341, 188, 333, 353 read with 149 IPC and 7(1)(a) CLA Act.

3. The learned counsel for the petitioners submitted that the petitioners protested peacefully and they have 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 servant. There is nothing in the impugned charge sheet to show that the petitioners had committed the offences 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 obstructed the traffic besides preventing the public servants from discharging their duty. Further, they had violated the orders passed by the Commissioner of Police 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. Since the allegations do not constitute the offence of



unlawful assembly as stated, the offence under Section 149 I.P.C., would not be made out.

6. 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.

7. As regards the offence under Section 188 of the Indian Penal Code the first respondent / police has no jurisdiction to lay a final report 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.



8. As regards the offence under Section 333 of the Indian Penal Code, the impugned final report does not allege that the petitioners had caused grievous hurt to any public servant in the discharge of his duty. Hence, the offence under Section 333 of the Indian Penal Code is not made out.

9. 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.

10. Further, there is no penal provision in the Criminal Amendment Act, 2005. The respondent has mechanically included Section 7(1)(a) of the Criminal Amendment Act, 2005 in the final report.

11. For the above reasons, the act of the petitioners in protesting does not attract any of the offences alleged and hence, the P.R.C. No. 111 of 2012 on the file of the learned XIV Metropolitan Magistrate No.II, Egmore, Chennai, is quashed.



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

23.03.2023

vsg

Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. XIV Metropolitan Magistrate Court No.II, Egmore, Chennai.
2. The Inspector of Police
F2 Egmore Police Station
Egmore, Chennai – 600 008.



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SUNDER MOHAN. J.

vsg

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