



Crl OP No. 31877 / 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Criminal Original Petition No. 31877 of 2019

and

Crl.M.P. No. 17445 of 2019

- 1.Susikalaiarasan
- 2.Kovai Kumanan
- 3.Kottai Sethu
- 4.Balasingam
- 5.Kumaresan
- 6.Balakrishnan
- 7.Kovai Rasa
- 8.Thiruma Ezhillan
- 9.Sakthivel
- 10.Dhanalakshmi
- 11.Elumalai
- 12.Manikam @ Leninraj
- 13.Mukilan
- 14.Queens



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15.Dass

16.Prabu

Vs

State represented by
The Inspector Of Police,
C-1 Kattur Police Station,
Coimbatore.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the entire records of Final Report in connection with the case in STC No.3373 of 2018 on the file of the Judicial Magistrate II, Coimbatore and quash the same.

For petitioners : Mr.D.Parventhan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This Criminal Original Petition is to quash the Final Report in S.T.C. No.3373 of 2018 on the file of learned Judicial Magistrate II at Coimbatore.



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2. It is alleged in the charge sheet that the petitioners have conducted a political demonstration on 20.03.2018 at Gandhipuram signal as against Ratha yathra arranged by Vishwa Hindu Parishad and also shouting against the State Government and those who vandalised the Periyar statue, by blocking the buses and general public. 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 obstructed the traffic besides preventing the public servants



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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.3373 of 2018 on the file of the learned Judicial Magistrate No.II Coimbatore is quashed.

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

10.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No

To

1. The Judicial Magistrate II,
Coimbatore
2. The Inspector of Police,
C-1 Kattur Police Station,
Coimbatore.
3. The Public Prosecutor
High Court of Madras
Chennai.



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SUNDER MOHAN, J
dk

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