



Crl.O.P(MD).No.1345 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.03.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.1345 of 2021

and

Crl.M.P.(MD)No.644 of 2021

- 1.Mubarak Ali
- 2.Riyas
- 3.Rabeek
- 4.Mohammed Rafiq
- 5.Usen

...Petitioners

Vs

- 1.State rep. By the
Inspector of Police,
E4 GRH Police Station,
Madurai City.
(Crime No.27 of 2015)
- 2.D.Kalaiyaran,
Special Sub Inspector of Police,
E4 GRH Police Station,
Madurai City. Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records pertaining to the proceeding in S.T.C.No.1840 of 2019 on the file of the Judicial Magistrate Court, No.II, Madurai and quash the same as illegal.

For Petitioners

For 1st Respondent

: Mr.D.Senthil

: Mr.M.Sakthi Kumar

Government Advocate (Crl. Side)



ORDER

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This petition is filed to quash the chargesheet in S.T.C.No.1840 of 2019 on the file of the Judicial Magistrate Court, No.II, Madurai.

2.The case against the petitioner is that the defacto complainant who was working as a Sub Inspector of Police, lodged a complaint before the first respondent stating that on 19.10.2015 at about 21.30 hours, when taking an accused to the Police Station in connection with Crime No.859 of 2015, the petitioner and others were conducting demonstration in front of the Police van parked at the emergency ward, Government Rajaji Hospital, Madurai. Hence, the Police registered a case against the petitioner and one another person in Crime No.27 of 2015 under Section 147, 188, 353 of IPC and the chargesheet was taken on file as S.T.C.No.1840 of 2019.

3.On the side of the petitioners, it is stated that no prima facie case was made out against the accused and the case is registered only due to personal grudge and the same is to be quashed. It is stated that under Section 188 of IPC, there was no specific allegation against the petitioners. All the petitioners are members of Muslim Association and they were not involved in any such offence. There was no specific allegation against the petitioners under Sections 147, 353 of IPC. The petitioners are innocent coolie workers and the



case in S.T.C.No.1840 of 2019 is to be quashed.

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4.On the side of the petitioners, it is stated that the respondent has no power to register a FIR. Only a private complaint can be registered against the petitioners. In support of this contention, a judgment of this Court in the case of *Jeevanandham and others v. State* reported in *2018 2 Law Weekly (Cri) 606* is cited.

5.On the side of the petitioners, it is further stated that except that the petitioners assembled in front of the hospital, no other offence is made out against the petitioners.

6.On the side of the respondents, it is stated that an accused in Crime No.859 of 2015 is involved in the offence under Explosives Act and PPDL Act was arrested. Before producing him before the learned Judicial Magistrate, the authorities went to the hospital to get the accused tested and at the time, the petitioners and their friends raised slogans against the police and hence, a case under Sections 147,188 and 353 of IPC was registered against the petitioners.



7.It is seen that Section 188 of IPC is not cognizable offence and a prior sanction is necessary. However, no such prior sanction was obtained by the police to register the case under Section 188 of IPC.

8.Section 353 of IPC reads as follows:

"Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person to the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both."

9.It is seen that except that the petitioners raised slogans, no other allegation was raised against them. Hence, Section 353 of IPC is not made out. The occurrence place is a hospital. More than that 147 is a penal Section and the offence under Section 146 was not mentioned in the criminal records. Hence, a case under Section 147 of IPC is not maintainable.

10.For the above reasons, it is decided that this is a fit case to be



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quashed. Hence, this Criminal Original Petition is **allowed** and the chargesheet in S.T.C.No.1840 of 2019 is hereby quashed. Consequently, connected miscellaneous petition is closed.

20.03.2023

NCC : Yes/No

Internet : Yes/No

Index : Yes/No

Mrn

To

1.The Inspector of Police,
E4 GRH Police Station,
Madurai City.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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R. THARANI,J.

Mrn

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