



CrI.O.P.(MD)No.2796 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/06/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

CrI.OP(MD)No.2796 of 2023

and

CrI.MP(MD)Nos.2528 and 2529 of 2023

1.Jeyaraman

2.Namachivayam

: Petitioners/A4 and A8

Vs.

1.The State represented by

The Inspector of Police,
Sivagiri Police Station,
Tenkasi District.

(In Crime No.293 of 2018) : R1/Complainant

2.Mr.Packiaraj,

Village Administrative Officer,
Rayagiri Part-I,
Sivagiri Taluk,
Thenkasi District.

: R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned final report filed in STC No.171 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate Court, Sivagiri, in connection with Crime No.293 of 2019 on the file of the respondent police station and to quash the same as against the petitioners concerned and pass such further or other orders.

For Petitioners : Mr.Henri Tiphagne

For Respondents : Mr.R.Sureshkumar
Government Advocate
(Criminal side)



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O R D E R

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This criminal original petition has been filed seeking quashment of the case in STC No.171 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate, Sivagiri.

2.The case of the prosecution in brief:-

The de-facto complainant, who is the Village Administrative Officer has lodged a complaint stating that on 07/07/2019, the petitioners and others conducted a demonstration against the forming of a four lane National Highways from Thirumangalam to Kollam, without any permission. Based upon which, a case in Crime No.293 of 2019 was registered for the offences under sections 143, 151 and 154 IPC. After completing the process of investigation, final report has been filed and it was taken on file in STC No.171 of 2020 by the trial court.

3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that none of the allegations mentioned either in the FIR or final report attract any of the ingredients of the offences alleged against them.



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4.Heard both sides.

5.For attracting the offence under section 143 IPC, the ingredients of section 141 IPC must be fulfilled.

6.Section 141 IPC reads as under:-

"Section 141.Unlawful assembly.-An assembly of five or more persons is designated an "unlawful assembly:, if the common object of the persons composing that assembly is-

First-To overawe by criminal force, or show of criminal force, or any public servant in the exercise of the lawful power of such public servant; or

Second-To resist the execution of any law, or of any legal process; or

Third.-To commit any mischief or criminal trespass, or other offence; or

Fourth.-By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or



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enjoyment, or to enforce any right or supposed right: or

Fifth.-By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.-An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly."

7.When we apply the ingredients to the factual position of the case, it is seen that none of the ingredients mentioned in 141 IPC get attracted. They have simply made agitation. It is a democratic right of every person to raise voice against the political or Government, demanding legal action on a point. Such a right has been exercised by the petitioners. So, that cannot be construed as 'unlawful or illegal'.

8.Likewise, it is not the case of the prosecution that the petitioners knowingly joining or continuing in assembly after it has been commanded to disperse and committed riot for benefit. So, sections 151 and 154 IPC are also not attracted against the petitioners.



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9.For the reasons stated above, this criminal original petition stands allowed. The case in STC No.171 of 2020 on the file of the Additional District Munsif-cum-Judicial Magistrate, Sivagiri is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

21/06/2023

Index:Yes/No

Internet:Yes/No

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To,

- 1.The Additional District Munsif-cum-Judicial Magistrate, Sivagiri.
- 2.The Inspector of Police,
Sivagiri Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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Cr1.OP (MD) No. 2796 of 2023

21/06/2023