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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.4720 of 2023

and

Cr1.MP(MD)Nos.4147 and 4149 of 2023

- 1.V.Ayyappan
- 2.Karthikeyan
- 3.J.Cable Seenivasan @ Seenivasan : Petitioners/A1 to A3

Vs.

- 1.The Inspector of Police,
Fort Police Station,
Trichy.
(In Crime No.1096 of 2022) : R1/Complainant
- 2.Subramanian.K
Sub Inspector of Police,
Fort Police Station,
Trichy. : R2/De-facto
Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to final report in STC No.8744 of 2022 on the file of the Judicial Magistrate No.1, Tiruchirappalli and quash the same for the petitioners alone and pass such further or other orders.



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For Petitioners : Mr.P.Ganapathi Subramanian
For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition is filed seeking quashment of the case in STC No.8744 of 2022 on the file of the Judicial Magistrate No.1, Tiruchirappalli.

2.The facts in brief:-

The de-facto complainant along with the police team was on the regular patrol, on 26/07/2022 at about 11.30 am, on information, they went to near Anna Statue, Trichy, wherein they found 400 persons assembled in that place unlawfully, causing nuisance to the traffic, staged protest and demonstration condemning the rise of Electricity charges, House Tax charges, etc. On the basis of the above said occurrence, a case was registered in Crime No.1096 of 2022 for the offences under sections 143, 341 IPC and section 41(6)(b) of the Tamil Nadu City Police Act, 1818 and section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959. After completing the formalities of investigation, charge sheet



was filed and it was taken cognizance in STC No.8744 of 2022 by the Judicial Magistrate No.1, Tiruchirappalli.

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

4. Heard both sides.

5. Reading of the final report shows that the petitioners, who belongs to a particular political party conducted demonstration and protest against the rise in charges of Electricity, House tax, etc. So this is the exercise of right to make a protest or demonstration, as the case may be. But what was expressed by them is a democratic right. That cannot be disputed. Here, the prosecution says that it amounts to unlawful assembly. They also prevented the traffic. Apart from that, section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act 1959 has also been made upon the petitioners.



6. Section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act 1959, reads as under:-

"4(1). Penalty for unauthorised disfigurement by advertisement:

Subject to the provisions of Section 4-A, whoever affixes to or inscribes or exhibits on, any place open to public view any advertisement without the written consent of the owner or occupier or person in management of the property in which such place is situated shall be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to two hundred rupees, or with both."

7. But here, the ingredients are not attracted, since it has been stated in the final report that they were holding placards, demanding reduction of the charges. They were also holding their party flag. This will not amount to offence punishable under section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act 1959 Act. So, this Act is not attracted.



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8. Similarly, to attract the offence under section 143 IPC, section 141 IPC must be satisfied.

9. 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



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right of which he is in possession or 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."

10. Reading of this provision shows that assembly must be unlawful in nature. As mentioned above, it cannot be construed as an unlawful assembly. It is only their way of expressing their democratic right of expression. So, section 143 IPC is not attracted.

11. Similarly, section 341 IPC is not attracted, since there is no allegation to the effect that they prevented the public from moving in a particular direction. Their aim was not to restrain any person proceeding in a particular direction. Their aim was to



12. In the result, this criminal original petition is **allowed**. The proceedings in STC No.8744 of 2022 on the file of the Judicial Magistrate No.1, Tiruchirappalli, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No
Internet:Yes/No
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To,

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- 1.The Judicial Magistrate No.1,
Tiruchirappalli.
- 2.The Inspector of Police,
Fort Police Station,
Trichy.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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