



Crl.O.P.(MD)No.5872 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **24.04.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **G.ILANGO VAN**

Crl.O.P.(MD)No.5872 of 2023
and Crl.M.P.(MD).No.5143 of 2023

1.T.Palanisamy
2.T.Sivakumar
3.P.Thatchanamoorthis
4.S.Vennila
5.S.Revathi
6.P.Ponnusamy
7.S.Saravanan
8.R.Santhosh
9.A.Ravichandran
10.A.Mani
11.V.Ramesh
12.M.Dhanabal
13.M.Sivakumar
14.P.Maheshwari
15.S.Ramasamy ... Petitioners/Accused Nos.1 to 15

Vs.

1.State rep. by
The Inspector of Police,
Pasupathipalayam Police Station,
Karur District.
(Crime No.305 of 2022) ... 1st Respondent /Complainant

2.R.Arumugam ... 2nd Respondent / Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the Impugned FIR registered in Crime No. 305 of 2022 on the file of the 1st respondent



police and quash the same as illegal as against the petitioners concerned.

For petitioner : Mr.M.Rajaguru

For Respondents : Mr.R.Suresh Kumar
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the Impugned FIR registered in Crime No. 305 of 2022 on the file of the 1st respondent police and quash the same as illegal as against the petitioners concerned.

2.The facts in brief:

The defacto complainant lodged a complaint stating that on 08.07.2022, the Village people belonging to Vadakupalayam, staged protest and blocked the traffic of Trichy to Karur Road. On information only the defacto complainant went to the place of the above said occurrence. He found that several persons blocking the National Highway demanding action against one Thirumurthy. He informed them to stop the above said protest and promised to initiate against the Thirumurthy and steps will be taken to construct the shelter. They refused to obey them and also prevented them from discharging his official duty. On the basis of the complaint given by him, a case was registered against several persons under Sections 143, 341, 353 of IPC.



3. Seeking quashment of the same, this petition has been filed on the ground that none of the allegation mentioned in the complaint attracts any of the ingredients offences punishable under Sections 143, 341, 353 of IPC.

4. Heard both sides.

5. The facts and the background is that there was a bus stop in the Village, that was alleged to be damaged or demolished by one Thirumurthy, who belongs to the very same Village. Against the above said demolition the Village people made a complaint before the first respondent police. But no action was taken. So they assembled peacefully to take up the issue to the District Collector, Karur. By misunderstanding the above said gathering, the above said false complaint has been given and registered.

6. Reading of the FIR itself shows that demanding action against the above said Thirumurthy, the Village people staged protest and block the traffic.

7. But the allegation that the defacto complainant was prevented



from discharging his official duty is not correct, since no occasion for the accused to prevent the defacto complainant from discharging his official duty. So prima facie offence under Section 353 of IPC may not be made out.

8. With regard to Section 143 IPC, the ingredient of offence under Section 143 IPC must be satisfied.

9. The unlawful assembly is defined under section 141 IPC as under.

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, the Central or any State Government or Parliament or the Legislature of any State, 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 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.”

10. Reading of the allegation in the complaint shows that none of the ingredients can be made applicable. What have been protested or demanded by the petitioners, was to initiate action against one Thirumurthy, who alleged to have demolished the bus shelter. That demand cannot be construed as an unlawful act. So naturally Section 143 of IPC may not also be attracted.

11. Coming to Section 341 of IPC, the allegation is that they blocked the traffic and prevented the public from moving. Now reading of the final report, which was prepared on 19.10.2022 itself does not indicate that the public were prevented from moving in a particular direction.



12.As I mentioned earlier, even though it was prepared on 19.10.2022, so far it was not presented before the trial Court and no cognizance also been taken. The learned counsel for the petitioner submitted that cognizance itself is barred by limitation. Offence under Section 143 of IPC invites punishment of 6 months imprisonment or fine of Rs.500/- or with both. Section 341 of IPC invites punishments of one month or fine to the extend of Rs.500/- or both. Section 353 of IPC invites the punishment up to two years of imprisonment or fine or with both. But as mentioned above, Section 353 is not at all attracted to the facts and circumstances of the case. Since the occurrence was said to have been taken place on 08.07.2022 and the limitation period is available upto 07.07.2023, which is not barred by limitation.

13.But from the circumstances and facts, it is seen that only for lawful purpose they have assembled in that place, which cannot be construed as unlawful in nature. If they blocked traffic they ought to have taken into custody immediately to ease out the traffic. Their aim was not to block the traffic. Their aim is only to invite the attention of the officials to the above said issue. So I am of the considered view that even though they have created some nuisance, no illegality or purpose or motive is involved, the continuation of the prosecution may not serve any



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purpose. Since it is a democratic right of other person to stage a protest to ventilate his grievance, when we view the present prosecution from this angle, then, it has to be quashed.

14. Accordingly, this criminal original petition is **allowed** and the Impugned FIR registered in Crime No. 305 of 2022 on the file of the 1st respondent police in so far as the petitioners are concerned is hereby **quashed**. Consequently, connected miscellaneous petition is closed.

24.04.2023

Index : Yes/No

Internet : Yes/No

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To

1. The Inspector of Police,
Pasupathipalayam Police Station,
Karur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGOVAN. J.

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