



CrI.O.P.(MD)No.5963 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/06/2023

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

CrI.OP(MD)No.5963 of 2023

and

CrI.MP(MD)Nos.5235 and 5236 of 2023

1.Balasaraswathi
2.Jeyapreetha
3.Ukkarapandi
4.Muthuramalingam
5.Subbaiah
6.Arumugampillai @ Arumugam
7.Palanikumar
8.Vengadesalam @ Venkatasalam
9.Vigneshwaran
10.Muthu : Petitioners/A1 to A10

Vs.

1.State rep. by its
The Inspector of Police,
Devadanpatti Police Station,
Devadanapatti,
Theni District.
(Crime No.104 of 2021) : R1/Complainant

2.Idhris Khan
Now working at
Sub Inspector of Police,
Devadanpatti Police Station,
Devadanpatti,
Theni District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned charge sheet in STC No.761 of 2022 on the file of the Judicial Magistrate, Periyakulam and quash the same as illegal as against the petitioner and pass such further or other orders.



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For Petitioners : Mr.K.Anandraj
For Respondents : Mr.S.Manikandan
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.761 of 2022 on the file of the Judicial Magistrate, Periyakulam.

2.The case of the prosecution in brief:-

On 09/03/2021 at about 19.00 hours, the petitioners along with others assembled near Dharmalingapuram Silvarpatti Junction and staged protest for the arrest of one Panthal Raja. Upon which, a case in Crime No.104 of 2021 was registered for the offences under sections 143 341 IPC. After completing the formalities of investigation, charge sheet was filed and it was taken cognizance in STC No.761 of 2022 by the Judicial Magistrate, Periyakulam.

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 charge sheet 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 made protest against the arrest of a person called 'Panthal Raja'. Even though, the protest that was made by the petitioners is per se illegal, but their intention was not to make any illegal activity. Protest against the arrest of a person, per se does not attract the offence under section 141 IPC.

8. Section 341 IPC reads as under:-

"341. Punishment for wrongful restrain.-Whoever wrongfully restrains any person shall be punished with simple



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imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees or with both.

9. Similarly, section 341 is not attracted. There is no allegation to the effect that they prevented the public from proceeding in a particular way.

10. No doubt that they are causing some sort of inconvenience to the public. For that, they ought to have proceeded under Madras City Police Act. But instead of doing so, they have been charged for the offences under sections 143 and 341 IPC, which is not permissible under law. On that sole ground, the entire prosecution is bad in law.

11. In the result, this criminal original petition is **allowed**. The case in STC No.761 of 2022 on the file of the Judicial Magistrate, Periyakulam, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

27/06/2023

Index: Yes/No
Internet: Yes/No

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To,

- 1.The Judicial Magistrate,
Periyakulam,
Theni District.
- 2.The Inspector of Police,
Devadanapatti Police Station,
Devadanapatti,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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