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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:14/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.7421 of 2023

and

Cr1.MP(MD)No.6488 of 2023

Sudaldass @ Dass : Petitioner/A1

Vs.

1.The State Through,
The Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi District. : R1/D-facto Complainant

2.Periyanayagam,
The Village Administrative Officer,
Part II Thoothukudi,
Thoothukudi 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 connected to FIR in Crime No.415 of 2019 on the file of the respondent No.1 and quash the same as illegal as against the petitioner and pass such further or other orders.

For Petitioner : Mr.R.Alagumani

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

**ORDER**

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This criminal original petition is filed seeking quashment of the FIR in Crime No.415 of 2019 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

On 13/12/2019, one Association called 'Tamilpuligal' made demonstration/protest against the arrest of the Association Leader Nagai Thirumalvalavan in front of the Ambedkar statue at about 12.30 am, on the Palayamkottai road, Thoothukudi. They caused disturbance to the traffic and also created nuisance to the public. On the basis of the above said occurrence, *suo motu* FIR has been registered in Crime No.415 of 2019 for the offences under sections 143, 341 and 283 IPC.

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



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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



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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.

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 protest for condemning the arrest of the General Secretary of the Tamilpuligal party. It is a democratic right of every person to raise voice against demanding legal action on a point. Such a right has been exercised by the petitioners. So, that cannot be construed as 'unlawful or illegal'.



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8. Section 341 IPC reads as under:-

"341. Punishment for wrongful restrain.-Whoever wrongfully restrains any person shall be punished with simple 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. Section 283 IPC reads as follows:-

"Section 283. Danger or obstruction in public way or line of navigation.-Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction or injury to any person to any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees."



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11.As far as the offence under S.283 IPC is concerned, there should be some clear and cogent material to disclose that obstruction was caused to any person in any public way.

12.Perusal of the records shows that there is no clear and cogent material to disclose that obstruction was caused to any person in the public way due to the alleged procession led at the instance of the petitioner and others. So the offence under Sec.283 IPC *prima facie* is also not attracted.

13.No doubt that the petitioner and others 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, 341 and 283 IPC, which is not permissible under law. On that sole ground, the entire prosecution is bad in law.

14.In the result, this criminal original petition is **allowed**. The FIR in Crime No.415 of 2019 on the file of the 1st respondent is hereby quashed as against the



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petitioner. Consequently, connected Miscellaneous
Petition is closed.

14/06/2023

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

- 1.The Inspector of Police,
Thoothukudi Central Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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