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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/06/2023

CORAM:

**THE HON'BLE MR JUSTICE G.ILANGO VAN**

Cr1.OP (MD) No.10167 of 2023

and

Cr1.MP (MD) No.8065 of 2023

Nagoor Meerasa : Petitioner/A1  
Vs.

1.The State represented by  
The Inspector of Police,  
Kalakkad Police Station,  
Tirunelveli,  
Tirunelveli District.  
(Crime No.69 of 2022) : R1/Complainant

2.Devi,  
Sub Inspector of Police,  
Kalakkad Police Station,  
Tirunelveli 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 First Information Report in Crime No.69 of 2022 on the file of the 1<sup>st</sup> respondent police station and quash the same as against the petitioner is concerned and pass such further or other orders.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.B.Nembiselvan  
Additional Public Prosecutor

**ORDER**

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This criminal original petition is filed seeking quashment of the FIR in Crime No.69 of 2022 on the file of the 1<sup>st</sup> respondent police.

2.The case of the prosecution is that on 07/03/2022 at about 08.15 pm, the police team attached to Kalakkad Police station, were in the routine bundobust duty, at that time, the accused persons numbering about 28 gathered near SDPI party office unlawfully, causing disturbance to the traffic, conducted demonstration, condemning the low quality of the road laid down in that area. On the basis of the above said occurrence, a case in Crime No. 69 of 2022 was registered for the offences under sections 143 and 283 IPC.

3.Seeking quashment of the same, this petition has been filed by this petitioner, who is arrayed as A1.

4.Heard both sides.

5.An allegation of demonstration without proper and prior permission against the laying of lower quality road.



6. Conducting demonstration or protest against the functioning of the Government, cannot be construed as illegal in nature. It is a democratic right of every political party to make objection against the functioning or policy of the Government. So, that cannot be stated to be illegal.

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

8. 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*



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*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.*

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

9. When we apply the ingredients to the factual position of the case, it is seen that none of the ingredients mentioned in 141 IPC are attracting. They have simply made protest against the performance of the Government. It is a democratic right of every person to



raise voice against the political or Government condemning their policies. Such a right has been exercised by the petitioner along with others. So, that cannot be construed as 'unlawful or illegal'.

10. Similarly, there is no allegation that the petitioner along with others caused danger or obstruction to any person in any public way or public line of navigation. Therefore, the offence under section 283 will not be attracted.

11. So, the continuation of the prosecution will not amount to clear abuse to process of court and law. On the sole ground, this prosecution is liable to be quashed.

12. In the result, this criminal original petition is **allowed**. The FIR in Crime No.69 of 2022 on the file of the 1<sup>st</sup> respondent is herein quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

**12/06/2023**

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

- 1.The Inspector of Police,  
Kalakkad Police Station,  
Tirunelveli.
- 2.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**G. ILANGO VAN, J**

**er**

Cr1.OP (MD) No.10167 of 2023

**12.06.2023**