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Crl.O.P.(MD)No.11716 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On : **28.04.2023**

Delivered on : **02.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

**Crl.O.P.(MD) No.11716 of 2021**

**and**

**Crl.M.P.(MD)No.6000 of 2021**

- 1.Baison @ Bison Palaiah
- 2.Ananth @ Ananthakumar
- 3.Jeyamerlin @ Jeya Merlin Rani Francis
- 4.Chrithudhas @ Christuraj Tangamani
- 5.Helan Jenat @ Helen Janet David Selvaraj
- 6.Maryvinotha @ Mary Vinotha Appavu Villavarayar
- 7.Suyambukani @ Suyambukani Rajamani
- 8.Janaki@ Janaki Thanga Nadar
- 9.Jona @ Jonathan Lekshmi Narayanan ... Petitioners/accused

Vs.

The State Rep. by

The Inspector of Police,

Vadaseri Police Station

Kanyakumari District.

(Crime No.1 of 2021)

... Respondent/ Complainant



Crl.O.P.(MD)No.11716 of 2021

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in Crime No.1 of 2021, on the file of the respondent and to quash the same insofar as the petitioners.

For Petitioners : Mr.G.Anto Prince

For Respondent : Mrs.M.Aasha  
Government Advocate (Crl.Side)

### **ORDER**

This petition is filed to quash the F.I.R in Crime No.1 of 2021, on the file of the respondent police.

2. The case against the petitioners is that on 31.12.2020, at about 20.00 hours, when the defacto complainant was on patrol, he received information at about 23.25 hours that the accused No.1 was conducting prayer in his house along with 100 people without following the social distance during the pandemic situation and they created nuisance to the neighbours by using speakers, without getting permission. Due to this, neighbours gathered and they protested the prayer meeting. The defacto complainant informed the occurrence to his superior, he reached the spot at about 23.40 hours, there were 100 Hindus gathered and they seems to be besieged. In the meantime, the Deputy Superintendent of Police, arrived the occurrence place and they consoled



Crl.O.P.(MD)No.11716 of 2021

the public and asked A1 to stop the prayer. A1 shouted against the defacto complainant and he asked permission to conduct the prayer up to 1.00 clock. To maintaining peace in the new year, the defacto complainant and his supporters gave permission. But, A1 refused to stop the prayer after 1.00 clock and hence, the F.I.R in Crime No.1 of 2021 was registered, on 01.01.2021.

3. On the side of the petitioners, it is stated that A1 is a Priest of “Jesus Coming with Cloud”, JCC Church, affiliated with Good News Mission Church, registered as Registration No.36/2001. He was conducting prayer in the place of occurrence for the past 23 years, without any hindrance to the neighbours. No complaint was lodged against him. The petitioners and his family members, friends and relatives, who belonged to the same locality assembled for prayers and hence, Sections 270 and 269 of I.P.C were not made out. No assault or criminal force was used by the petitioners against the public servant, who are discharging their duty and hence, Section 353 of I.P.C is not made out. Article 25 of the Constitution of India gives right to every citizen to practice and propagate any religion of his choice.



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Crl.O.P.(MD)No.11716 of 2021

4. On the side of the petitioners, it is further stated that as per G.O.(Ms.) No.820, Revenue and Disaster Management (D.M.IV) Department, dated 31.12.2020, notification was issued by the Government. As per the G.O passed by the Government, the petitioners are entitled to conduct the prayer on the eve of New Year.

5. On the side of the prosecution, it is stated that the petitioners conducted prayer without following the condition imposed by the Government, during COVID-19 pandemic period. They used the speakers and disturbed the public and an offence under Section 353 of I.P.C. is serious in nature and the petitioners have to face the trial.

6. It is seen that the F.I.R was registered against the petitioners under Sections 143, 269, 270, 353 of I.P.C and Section 3 of the Epidemic Diseases Act. .

7. Copy of the Government Order in G.O.(Ms.) No.820, in Revenue and Disaster Management (D.M.IV) Department, dated 31.12.2020, was filed on the side of the petitioners. in Para – II (iii) of the G.O, it is stated as follows:-



CrI.O.P.(MD)No.11716 of 2021

*“II.(iii). “Time restrictions imposed for the worship of public public in the religious places / places of worship shall be relaxed and public shall be allowed for worship as per the usual timings of the religious places / places of worship following the standard operating procedures”.*

8. The allegation against the petitioners is that 30 persons assembled for a prayer, but, in accordance with G.O., upto 200 persons can assemble together to conduct the prayer. Hence, an offence under Sections 296 and 270 of I.P.C are not made out. Under Section 353 of I.P.C some criminal force should against applied for the public servant, while they were discharging the official duty. There is no allegation as to the use of criminal force against the public servant.

9. In the above circumstances, this petition is allowed and the case in Crime No.1 of 2021, on the file of the respondent, against the petitioners alone are hereby quashed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No  
Index : Yes/No  
Ls

**02.06.2023**



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Crl.O.P.(MD)No.11716 of 2021

**R.THARANI. J.**

Ls

To

1.The Inspector of Police,  
Vadaseri Police Station  
Kanyakumari District.

2. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

Pre-delivery order made in  
**Crl.O.P.(MD)No.11716 of 2021**

**02.06.2023**