



Crl.O.P.(MD).No.11636 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 16.11.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD)No.11636 of 2020

and

Crl.M.P.(MD)No.5317 of 2020

1. Ariyamalai
2. Karthick @ Karthik Prabhu
3. Karmegam
4. Malaisamy
5. Copper Murugan @ Senthil Murugan
6. Sabarimalai .. Petitioners/Accused 1 to 6

Vs.

1. State rep. by,
The Inspector of Police,
Veeracholan Police Station,
Virudhunagar District.
(Crime No.79/2019) .. Respondent/Complainant
2. Irulandi,
Supervisor,
TASMAC Shop No.12046,
Veeracholan,
Thiruchuli Taluk,
Virudhunagar District. .. Respondent / Defacto Complainant



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PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to FIR in Crime No.79 of 2019 dated 31.10.2019 on the file of the Inspector of Police, Veeracholan Police Station, Virudhunagar District and quash the same as against the petitioners.

For Petitioners : Mr.B.Anandan

For Respondents : Mr.M.Muthumanikkam
Government Advocate(Crl.Side)
for R1

: No appearance for R2

ORDER

This Criminal Original Petition is filed to quash the FIR in Crime No.79 of 2019 dated 31.10.2019 on the file of the Inspector of Police, Veeracholan Police Station, Virudhunagar District.

2. The petitioners are the accused in Crime No.79 of 2019. The petitioners and the villagers raised objection to open the TASMACH shop No.13046 in Survey No.84/8A, near Indira Nagar Colony, Veeracholan Village, Thiruchuli Taluk, Virudhunagar District ie., in the central part of



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the village. Hence, they filed a writ petition in W.P(MD)No.12959 of 2017 before this Court. This Court vide order dated 04.09.2017, issued a direction to the District Collector to pass any orders to open the liquor shop after hearing the writ petitioner. In spite of the direction issued by this Court, the competent authority granted licence to run the bar in the said premises and the same was questioned by the petitioners and the other villagers. It is the allegation of the prosecution, at that time, the petitioners and others attempted to empty the bottles and removed the asbestos sheet installed in the said Bar. Therefore, the respondent police registered the case in Crime No.79 of 2019 for the offence under Sections 147, 148, 448, 2394(b), 506(ii) IPC and Section 3 of the Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. To quash the same, the petitioners filed this present petition.

3. The learned counsel for the petitioners submitted that the allegation is that all the villagers raised objection and trespassed into the TASMAR Bar and caused damage to that Bar. But among the villagers, the investigating agency selectively made allegation against these petitioners. Further, the protest is only for lawful purpose and hence, he



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stated that there is no intention to cause damages and hence, the offence under Section TNPPDL Act is not made out. Hence, he seeks for quashment of the FIR.

4. The learned Government Advocate (Criminal side) on instructions, submitted that pending quash petition, investigation was completed and final report was filed before the jurisdictional Court and the same was taken on file in Spl.S.C.No.13 of 2020. The same was pending before the PCR Court, Srivilliputhur. The learned Government Advocate (Criminal side) further submitted that if they have grievance in opening of the TASMACH Bar, the same shall be redressed through legal means, but without working out their remedy in accordance with law, they illegally trespassed into the TASMACH Bar and caused damage to the properties. Hence, the offence is clearly made out.

5. The learned counsel for the petitioners submitted that this Court granted stay of the further proceedings. In spite of the stay granted by this Court, the investigating officer filed the final report which amounts to the violation of the Court order. He also submitted that even in the



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final report, there is no specific averment regarding the petitioners. Hence, he seeks indulgence of this Court to quash the proceedings. The learned counsel for the petitioners also produced an unreported order of this Court in Crl.O.P.No.15060 of 2021 wherein in similar circumstances, this Court quashed the proceedings against the trespasser.

6. This Court has considered the rival submission made by either side and perused the records and also the precedents relied upon by them.

7. Admittedly the petitioners filed W.P(MD)No.12959 of 2017 before this Court. This Court issued a direction to the District authority to afford an opportunity to the writ petitioner before giving permission. Without considering the same, the authorities concerned granted permission to open the bar. That act provoked the petitioners to agitate the same. From the records, it is clear that there was no intention on the part of the petitioners to cause any damage to the properties. They protested in good faith ventilating the grievance of the general public against the presence of the said TASMAL Bar, which causes great nuisance and hardship to the general public. In such circumstances, this



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Court finds no offence is made out against the petitioners and hence, this Court is inclined to quash the FIR in Crime No.79 of 2019 dated 31.10.2019 on the file of the Inspector of Police, Veeracholan Police Station, Virudhunagar District.

8. In the similar circumstances, as rightly placed by the learned counsel for the petitioners in Crl.O.P.No.15060 of 2021, this Court has held as follows:

8. On a perusal of records and submissions of both sides, it is seen that on 17.10.2012, the petitioners assembled near the TASMACH Shop and protested demanding closure of the said Shop. The petitioners protested in good faith ventilating the grievance of the general public against the presence of the said TASMACH Shop, which causes great nuisance to the students, devotees of Temple. Further, the FIR and the charge sheet neither reveals any specific role of the petitioners nor attract any punishable offence. Further, the charge sheet does not reveal any of the petitioners intention to cause wrongful loss or damage to the public. Hence, this Court is of the considered view that no offence is made out against the petitioners and hence, this Court is inclined to allow this petition.



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11. In view of the above, the case in Spl.S.C.No.13 of 2020 pending before the PCR Court, Srivilliputhur is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
Internet: Yes/No
PJL/sbn

To

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



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K.K.RAMAKRISHNAN, J.

PJL/sbn

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