



CrI.O.P.(MD)No.11763 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/06/2023

CORAM

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

CrI.OP (MD)No.11763 of 2023

Sreekumar : Petitioner/A16

Vs.

1.The Inspector of Police,
S.T.Kulam Police Station,
Kanyakumari District.
(Crime No.213 of 2021) : R1/Complainant

2.S.Sundar Raj,
Sub Inspector of Police,
S.T.Kulam Police Station,
Kanyakumari 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 relating to FIR in Crime No.213 of 2021 on the file of the 1st respondent police and to quash the same and pass such further or other orders.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.213 of 2021 on the file of the 1st respondent.



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2.The case of the prosecution in brief:-

On 13/09/2021 at about 05.00 pm, when the de-facto complainant party were on routine patrolling duty, the accused persons were found assembled near the place of occurrence, demanding action against the persons, who created defamatory and insulting messages against a particular community. The above said demonstration and protest was made, on 13/09/2021 at about 05.00 pm to 05.30 pm, conducted by the party members numbering about 155. Based upon which, a case in Crime No.213 of 2021 was registered for the offences under sections 143, 269 and 270 IPC and section 3 of Epidemic Disease Act, 1897.

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

4. Heard both sides.

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



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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 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



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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 agitation against the persons, who created defamatory and insulting messages against a particular community. It is a democratic right of every person to raise voice against the political or Government demanding legal action on a point. Such a right has been exercised by the petitioner. So, that act cannot be construed as 'unlawful or illegal'.

8.As per section 269 IPC, maximum punishment period is six months or fine or both. But section 270 IPC upto two years or with fine or with both. There is no question of limitation here. But it is also seen that the Government has taken policy decision to withdraw the cases registered against the public for pandemic violation.



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9.For the reasons stated above, this criminal original petition stands allowed. The impugned FIR in Crime No.213 of 2021 is hereby quashed as against the petitioner.

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Index:Yes/No

Internet:Yes/No

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To,

- 1.The Inspector of Police,
S.T.Kulam Police Station,
Kanyakumari District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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