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CrI.O.P.(MD)No.15692 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/10/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

CrI.OP (MD)No.15692 of 2023

and

CrI.MP (MD)No.12462 of 2023

Sudaldass @ Doss : Petitioner/A19

Vs.

1.The State through
The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi District. : 1st Respondent/Complainant

2.Senthilkumar,
Village Administrative Officer,
Meelavittan Part 2 Village,
Thoothukudi District. : 2nd Respondent/De-facto
Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records connected to FIR in Crime No.98 of 2023 on the file of the 1st respondent 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.M.Sakthi Kumar
Government Advocate
(Criminal side)



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the FIR in Crime No.98 of 2023 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

On 02/05/2023 at about 11.30 am, the accused personal unlawfully assembled at Tirunelveli-Thoothukudi Bypass road near District Collector office junction, waylaid the public pathway and made protest demanding closure of the Sterlite Factory. Upon the above said occurrence, a case in Crime No.98 of 2023 was registered for the offences under sections 341 and 143 IPC.

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 him.

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 protest demanding closure of the Sterlite Factory permanently. Such a right has been exercised by the petitioner along with others. So, that cannot be construed as 'unlawful or illegal'.

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.



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9. Similarly, section 341 is not attracted. There is no allegation to the effect that the petitioner along with others prevented the public from proceeding in a particular way.

10. No doubt that they 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 and 341 IPC, which is not permissible under law. On that sole ground, the entire prosecution is bad in law.

11. In the result, this criminal original petition is **allowed**. The FIR in Crime No.98 of 2023 on the file of the 1st respondent, is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

04/10/2023

Index:Yes/No
Internet:Yes/No

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To,

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- 1.The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi.
- 2.The Village Administrative Officer,
Meelavittan Part 2 Village,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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