



Crl.O.P.(MD)No.16831 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/10/2023

CORAM

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

Crl.OP (MD)No.16831 of 2023

and

Crl.MP (MD)Nos.13396 and 13397 of 2023

- 1.Muthu Shek Thavuthu @ Muthu Sheikdhavood
 - 2.Ramesh Raja @ Ramis Raja
 - 3.Muhamadu Sherief @ Muhamed Sharif
 - 4.Thivan @ Dhivan
 - 5.Umarbaiyasar @ Umar Faish
 - 6.Kathar Batsha @ Kadhar Batcha
 - 7.Nakoor Meeram @ Nagur Meeran
 - 8.Thivan Maideen @ Thivan Mydeen Pitchai
 - 9.Abdul Rahman @ Abdul Rahuman
 - 10.Rahamadulla @ Rahamadulla
 - 11.Kasim Maideen @ Kasim Maitheen
 - 12.Muthalip @ Muthaif
 - 13.Shaiyadu Iprahim @ Seidau Ibrahim
 - 14.Muhamadu Ishmayil @ Muhameed Ismail
 - 15.Ishamayil Beebi @ Ismayil Maitheen
 - 16.Shajakan @ Shajahan
 - 17.Amsathkan @ Amjethgan
 - 18.Sheerasutheen @ Sirajil Munir
 - 19.Iprahim @ Ibrahim
 - 20.Muhamadu Ushen @ Mugamathu Ushain
- : Petitioners/A5, A8, A13, A14,
A26, A28, A29, A30, A31, A33,
A34,A36,A40,A41,A43,A44 & A45

Vs.

- 1.State represented by
The Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.
(In Crime No.05 of 2020) : R1/Complainant



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2.Mahalingam,
Sub-Inspector of Police,
Keelarajakularaman PS,
Virudhunagar 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 pertaining to the impugned Final Report in STC No.1125 of 2020 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar district and to quash the same as illegal so far as the petitioners are concerned and pass such further or other order.s

For Petitioners : Mr.S.M.A.Jinnah

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.1125 of 2020 on the file of the Judicial Magistrate, Rajapalayam, Virudhunagar District.

2.The case of the prosecution in brief:-

On 08/01/2020 at about 10.45 am, the petitioners along with others, who are the members of a political party, assembled before Sathirapatti Bus Stop towards Rajapalayam to Alangulam main road, by expressing protest against the Citizenship Amendment Act without proper



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permission from the concerned authority. Upon which, a case in Crime No.05 of 2020 was registered for the offences under sections 143, and 341 IPC. After completing the formalities of investigation, charge sheet was filed and it was taken cognizance in STC No.1125 of 2020 by the Judicial Magistrate, Rajapalayam.

3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that none of the allegations mentioned either in the FIR or charge sheet 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.

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-



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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 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."



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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 against the Citizenship Amendment Act. It is a democratic right of every person to raise voice against the political or Government demanding legal action. Such a right has been exercised by the petitioners 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.

9. Similarly, section 341 is not attracted. There is no allegation to the effect that they 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



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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 case in STC No.1125 of 2020 on the file of the Judicial Magistrate, Rajapalayam, is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate,
Rajapalayam,
Virudhunagar district.
- 2.The Inspector of Police,
Keelarajakularaman Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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