



Crl.O.P.(MD)No.19263 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/11/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP (MD)No.19263 of 2022

and

Crl.MP (MD)Nos.13032 and 13033 of 2022

1.Varadharajan
2.Sethupandian
3.Mohandass
4.Rajasekaran : Petitioners/A1 to A4

Vs.

1.The State,
Rep. by the Inspector of Police,
Pudur Police Station,
Vilathikulam Taluk,
Thoothukudi District.
(Crime No.102 of 2016) : R1/Complainant

2.Selvakumar,
Village Administrative Officer,
Pudur,
Vilathikulam Taluk,
Thoothukudi 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 charge sheet pending in STC No.357 of 2017 on the file of the Judicial Magistrate, Vilathikulam and quash the same and pass such further or other orders.

For Petitioners : Mr.R.Murugan

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 case in STC No.357 of 2017 on the file of the Judicial Magistrate, Vilathikulam.

2.The case of the prosecution in brief:-

The de-facto complainant, who is the Village Administrative Officer lodged a complaint stating that the petitioners along with their villagers made a demand before the Tahsildar, Vilathikulam and higher officials, on 26/12/2016 for establishing a Nationalized Bank Branch at Pudur. Since the officials refused to accede to their request apprehending that they may protest seriously, they foisted the case, as the petitioners staged an hunger fasting by putting Saamiyana Tent, on 12/12/2016. Based upon the above said occurrence, a case in Crime No.102 of 2016 was registered for the offences under sections 341, 290 of IPC and section 4 of the Open Place (Prevention of Disfigurement) Act. After completion of the investigation, final report was filed and it was taken cognizance in STC No.357 of 2017 by the Judicial Magistrate, Vilathikulam.



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3. Seeking quashment of the same, this petition has been filed on the ground that only peaceful demonstration/protest was conducted by the petitioners along with others; And also on the ground that none of the allegations mentioned, either in the FIR or in the final report attract any of the ingredients of the offences as alleged against them.

4. Heard both sides.

5. For attracting the offence under section 341 of IPC, the ingredients of section 340 of IPC must be fulfilled.

6. Section 340 of IPC reads as under:-

*"340. **Wrongful confinement-** Whoever wrongfully restrains any person in such a manner as to prevent that person from proceedings beyond certain circumscribing limits, is said "wrongfully to confine" that person."*

7. There is no allegation to the effect that the petitioners along with others prevented the public from proceeding in a particular way and there is no complaint



by any of the public. So the offence under section 341 of IPC is not attracted.

8.For attracting under section 290 of IPC, section 268 of IPC must be fulfilled.

9.Section 268 of IPC reads as under:-

"268.Public nuisance.—A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right."

10.Perusal of the records shows that no public nuisance has been committed by the petitioners. So the offences under [Section 290 of IPC](#) is not attracted.

11.Even though, the petitioners have put up samiyana in the public place, but their aim was not disfiguring in the open place. They want to make a protest demanding establishment of a Bank branch. So the respondent police



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ought to have directed the them to disperse immediately. Even after that, they failed to disperse, they have to take them in the preventive custody. Without resorting such, final report has been filed. So the offence under section 4(1) of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959 is also not attracted.

12.For the reasons stated above, this criminal original petition stands **allowed**. The case in STC No.357 of 2017 on the file of the Judicial Magistrate, Vilathikulam is hereby quashed against the petitioners. Consequently, connected Miscellaneous Petitions are closed.

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Index:Yes/No
Internet:Yes/No
cp/er

To,

- 1.The Judicial Magistrate,
Vilathikulam,
Thoothukudi District.
- 2.The Inspector of Police,
Pudur Police Station,
Vilathikulam Taluk,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

cp/er

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