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Crl.O.P.(MD)No.17192 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 13/10/2023

CORAM

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

Crl.OP(MD)No.17192 of 2023

and

Crl.MP(MD)Nos.13631 and 13632 of 2023

1.Sarthar Arafath : Petitioner/A9

Vs.

1.The State represented by
The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
(In Crime No.83 of 2022) : R1/Complainant

2.Sub Inspector of Police,
Kadayanallur Police Station,
Tenkasi District. : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned final report filed in STC No.1582 of 2023 on the file of the Judicial Magistrate, Tenkasi in connection with Crime No. 83 of 2022 on the file of the respondents police and quash as against the petitioner is concerned and pass such further and other orders.

For Petitioner : Mr.R.Karunanidhi

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



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O R D E R

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This criminal original petition has been filed seeking quashment of the case in STC No.1582 of 2023 on the file of the Judicial Magistrate, Tenkasi.

2.The case of the prosecution in brief:-

On 16/03/2023 at about 05.00 pm, the petitioner along with others unlawfully assembled near Kadayanallur Bell Tower and conducted a demonstration against the agricultural land acquisition for four lanes of National Highways. Upon which, a case in Crime No.83 of 2022 was registered for the offences under sections 143 and 341 of IPC. After completing the formalities of investigation, charge sheet was filed and it was taken cognizance in STC No.1582 of 2023 by the Judicial Magistrate, Tenkasi.

3. Seeking quashment of the same, this petition has been filed by the petitioner 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 him.

4. Heard both sides.



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

6.Section 141 of 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



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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."

7. When we apply the ingredients to the factual position of the case, it is seen that none of the ingredients mentioned in 141 of IPC get attracted. They have simply made demonstration against the agricultural land acquisition for four lanes of National Highways. 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 petitioner. 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



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extend to five hundred rupees or with both."

9. Similarly, section 341 of IPC 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 doing so, they have been charged for the offences under sections 143 and 341 of 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.1582 of 2023 on the file of the Judicial Magistrate, Tenkasi in connection with Crime No.83 of 2022 on the file of the respondents police station is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

13/10/2023

Index:Yes/No
Internet:Yes/No

tm/er



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To,

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- 1.The Judicial Magistrate,
Tenkasi.
- 2.The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
- 3.Sub Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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