



CrI.O.P.(MD)No.17218 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.09.2023**

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

CrI.O.P.(MD) No.17218 of 2023

and

CrI.M.P.(MD).No.13652 of 2023

1.Kumaresam

2.Senthilkumar

3.Ayyanar

... Petitioners

Vs.

The State represented by
the Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

(In Crime No.1277 of 2020)

... Respondent / Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records pertaining to the impugned First Information Report in Crime No.1277 of 2020 on the file of the respondent No.1 Police Station and quash the same as against the petitioner and other accused.

For Petitioners : Mr.R.Karunanidhi

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking quashment of FIR in Crime No.1277 of 2020 pending on the file of the respondent Police registered against the petitioners for the offence under Sections 143, 341, 269, 270 and 290 of I.P.C.

2. According to the prosecution, on 07.12.2020, at about 11.00 A.M., the petitioners and other accused have conducted a peaceful demonstration during Covid-19 lock down period without any permission. Thereby, a case was registered *suo motu* by the respondent Police in Crime No.1277 of 2020 against the petitioners and many other accused alleging that they are committed the offence under Sections 143, 341, 269, 270 and 290 I.P.C.

3. It is submitted by learned counsel for the petitioners that they have been doing peaceful demonstration and they run off specific overt acts and also submitted that the co-accused Nos.3, 40 and 135 of this Crime No.1277 of 2020 have filed CrI.O.P.(MD).No.7963 of 2023 and the same was allowed.



4. Learned Additional Public Prosecutor submits that the petitioners have violated the Covid-19 norms, thereby, there is no case against the petitioners.

5. Heard the learned counsel for the petitioners and learned Additional Public Prosecutor for the respondent Police.

6. The petitioners were charged for the offence under Sections 143, 341, 269, 270 and 290 I.P.C. In order to prove the offence under Section 143 I.P.C., the prosecution is expected to prove that the petitioners shall be the members of an unlawful assembly as defined under Section 141 I.P.C. According to which, the petitioners must have been assembled to commit any of the offence as mentioned in Section 141 of I.P.C.

7. According to the prosecution case, the petitioners and other accused have assembled in order to protest and conduct a peaceful demonstration. No other case is registered against the petitioners and other accused. It is not the case of the respondent Police that the petitioners have assembled to commit any offence. Once the petitioners have not assembled there to commit any offence, their assembly shall not



be treated as an unlawful assembly, thereby, Section 143 I.P.C., does not attract.

7. In respect of Section 341 I.P.C. is concerned, in order to prove that the petitioners have committed the offence, the respondent prosecution has to prove that the petitioners should have restrained any person by preventing him/her from proceeding beyond certain directions. Even if the contents of FIR are accepted to be true, there is no allegation that the petitioners have prevented any person from proceedings in a direction in which he wanted to proceed. Further, there is no complaint filed by any person that he was prevented by the petitioners from proceeding in a particular direction, thereby, Section 341 I.P.C. does not apply.

8. Sections 269 and 270 I.P.C. both offences pre-suppose that the petitioners were suffering from corona virus and that they have neglected the corona virus or any other contagious diseases and on account of their negligence, there was a likelihood of spreading the disease. There is no record before the Court that the petitioners were suffering from either corona virus or from any other dangerous contagious disease and that on account of their negligence, it was likely



to spread. When there was no such allegation, the offence under Sections 269 and 270 I.P.C. also will not get attracted to the facts of the case.

9. In order to consider the case against the petitioners for the offence under Section 290 I.P.C., the prosecution supposed to prove that the petitioners are committed public nuisance. In respect of this allegation also, there are no averments in the FIR. The petitioners have demonstrated on 07.12.2020 peacefully, however, it is not the case of the prosecution that the petitioners are created public nuisance. There is no complaint from any corner alleging that the petitioners have involved in public nuisance.

10. In view of the same, there are no ingredients in order to consider any of the offence alleged against the petitioners under Sections 143, 341, 269, 270 and 290 I.P.C., thereby, FIR in respect of the offences against the petitioners will not sustain. Further, this Court while considering the similar application in CrI.O.P.(MD).No.7963 of 2020 filed by the Accused Nos.3, 40 and 135, has quashed the proceedings against the accused.



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11. In view of the discussion made above, the FIR in Crime No.1277 of 2020 on the file of the respondent Police is hereby quashed against the petitioners and this criminal original petition is allowed. Consequently, the connected miscellaneous petition is closed.

26.09.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
tsg

To

- 1.The Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN. J.

tsg

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