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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 18/10/2023

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

Cr1.OP(MD)No.17423 of 2023

and

Cr1.MP(MD)No.13833 of 2023

1.Natarajan
2.Palraj
3.Shahul Hameed
4.Edison Prasad : Petitioners/A4 to A7

Vs.

The Inspector of Police,
Avaniapuram Police Station,
Madurai City.
(Crime No.61 of 2017) : Respondent/Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings of impugned First Information Report in Crime No.61 of 2017 on the file of the Inspector of Police, Avaniapuram Police Station, Madurai City and to quash the same.

For Petitioners : Mr.M.Murugan
for M/s.Spicy Law Firm

For Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

**ORDER**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.61 of 2017 on the file of the respondent.

2.The case of the prosecution in brief:-

During Pongal festival, on 14/01/2017 as part of Jallikattu Protest, A1 and A2 brought a bull for conducting 'jallikattu' in the public place knowing the ban order imposed by the Government and the petitioners have accompanied them. On the basis of the occurrence, a *suo-motu* case in Crime No.61 of 2017 was registered for the offences under sections 143, 188 and 289 IPC.

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

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



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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."

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. At the time of the occurrence, the petitioners were standing near the place where the protest was held and they did not even participate in the event. So, that cannot be construed as 'unlawful or illegal'.

8. Section 188 IPC reads as under:-

"188. Disobedience to order duly promulgated by public servant.-Whoever, knowing that, by an order promulgated



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by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such directions, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his



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disobedience produces, or is likely to produce, harm.

9. Section 195 Cr.P.C is a bar to the police to register the FIR and investigate the matter in respect of section 188 of IPC and file a report under section 173 of Cr.P.C. Section 195 of Cr.P.C stipulates that no court shall take cognizance of any of the offences under sections 172 to 188 (both inclusive) of the IPC, except on the complaint in writing of the public servant concerned or some of the public servant to whom he is administratively subordinate.

10. As per section 289 IPC, the maximum punishment is six months, or with fine which may extend to one thousand rupees, or with both. There is no question of limitation here. But it is also seen that the Government has taken policy decision to withdraw all the cases registered over Jallikattu Protest issue.

11. The learned Government Advocate (Criminal side) has fairly admitted that all the cases registered during Jallikattu protest were withdrawn by the Government of Tamil Nadu and G.O.No.99, dated 20/02/2021 was issued in this regard.



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12. In view of the above said submission made by the learned government Advocate (Criminal side), this criminal original petition stands **allowed**. The FIR in Crime No.61 of 2017 on the file of the respondent is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petition is closed.

18/10/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Inspector of Police,
Avaniapuram Police Station,
Madurai.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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