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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/10/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP (MD) No.18656 of 2023

and

Crl.MP (MD) Nos.14727 and 14729 of 2023

Asmi @ Ashmi : Petitioner/A2

Vs.

- 1.The State of Tamil Nadu
Represented by the Inspector of Police,
Uvari Police Station,
Tirunelveli District. : R1/Complainant
- 2.Vivegananthan : 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 criminal case in CC No. 553 of 2022 on the file of the Judicial Magistrate, Radhapuram and to quash the same and pass such further or other orders.

For Petitioner : Mr.R.Balakrishnan

For 1st Respondent : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

**ORDER**

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This criminal original petition is filed seeking quashment of the case in CC No.553 of 2022 on the file of the Judicial Magistrate, Radhapuram, Tirunelveli.

2.The case of the prosecution in brief:-

On 15/10/2019 at about 11.45 am, the village people of Bharathar Uvari were made agitation regarding catching the fishes by using the fishing net by blocking the road. On the basis of the complaint given by the driver of the TNSTC Bus No.TN-23-N-2363, a case in Crime No.133 of 2019 was registered for the offences under sections 147, 341, 283 and 353 IPC. After completing the investigation, final report was filed and it was taken cognizance in CC No.553 of 2022 by the Judicial Magistrate, Radhapuram, Tirunelveli district.

3. Seeking quashment of the same, this petition has been filed by this petitioner 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 alleged against her.



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4. Heard both sides.

5. Conducting demonstration or protest in a lawful manner cannot be construed as 'unlawful demand'. It is a democratic right of every person to make objection against the functioning or policy of the Government. So, that cannot be stated to be illegal.

6. For attracting the offence under section 147 IPC, the ingredients of section 141 IPC must be fulfilled.

7. 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



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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."

8. When we apply the ingredients to the factual position of the case, it is seen that none of the ingredients mentioned in 141 IPC are attracting. They have simply made protest against the catching of fishes by using the fishing net. It is a democratic right of



every person to raise voice against the political or Government condemning their policies. Such a right has been exercised by the petitioner along with others. So, that cannot be construed as 'unlawful or illegal'.

9. 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."

10. Similarly, section 341 is not attracted. There is no allegation to the effect that they prevented the public from proceeding in a particular way.

11. Similarly, for attracting the offence under [Sections 283 and 353](#) IPC, no materials or informations are made available. The second respondent has simply stated in the First Information Report that he was prevented from discharging his official duty.



12.For the reasons stated above, this court is of the considered view that the entire prosecution is bade in law and accordingly, the same is liable to be quashed.

13.In the result, this criminal original petition stands **allowed**. The case in CC No.553 of 2022 on the file of the Judicial Magistrate, Radhapuram is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

17/10/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Judicial Magistrate,
Radhapuram.
- 2.The Inspector of Police,
Uvari Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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