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CrI.O.P.(MD)No.18622 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 17/10/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

CrI.OP (MD) No.18622 of 2023

and

CrI.MP (MD) No.14691 of 2023

1.Surentharan
2.Tamilarasan
3.Shiva
4.Sankar

: Petitioners/A1 to A4

Vs.

State rep. by
The Inspector of Police,
Pasupathipalayam Police Station,
Karur.

(Crime No.310 of 2022)

: Respondent/Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in Crime No.310 of 2022, dated 18/07/2022 for the offences under sections 120(A), 153 of IPC & Sec. 7(1)(a) Criminal Law Amendment Act, 2005 on the file of the respondent police and quash the same against the petitioners as illegal and pass such further or other orders.

For Petitioners : Mr.S.Vanchinathan

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the FIR in Crime No.310 of 2022 on the file of the respondent.

2.The case of the prosecution in brief:-

The de-facto complainant is the Sub Inspector of Police, attached to Pasupathipalayam police station. He received secrete information that some people made arrangement for staging protest, like that of one happened in Kallakurichi area, through whatsapp. They took up raid. At that time, they found the accused persons beneath the railway track bridge near Gandhi Grammam area. On suspicion, they were apprehended. They revealed that as a protest to death of one Sreemathi, a student, in Kallakurichi private school, they are conspiring to cause damage to the Government and private properties. They spread the above said message through whatsapp group. On their disclosure statement, they were arrested. Based upon the occurrence, a case in Crime No. 310 of 2023 was registered for the offences under sections 120(A), 153 IPC and section 7(1)(a) of Criminal Law Amendment Act, 2005.



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3. Seeking quashment of the same, this petition has been filed on the ground that none of the allegations mentioned in the FIR attract any of the offences punishable under sections 120(A), 153 IPC and section 7(1)(a) of the Criminal Law Amendment Act, 2005.

4. Heard both sides.

5. Before we go into the factual aspect, it is seen that some unfortunate event took place in Kallakurichi area where a private school is functioning. In that school, one girl student alleged to have died in a suspicious circumstances. Over the above said occurrence, large scale rioting and protest went throughout Tamil Nadu during the relevant time. As a consequence to the above said occurrence, this case has been registered stating that these petitioners also conspired to create law and order problem, to cause damage to the public properties. The above said message was spread through whatsapp requesting the people to gather and commit crime.

6. In the FIR, it has been stated that the above said message was recorded. But along with the FIR, no extract of the alleged message is enclosed. More-over, it has



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been stated that on the particular date, these persons assembled below a railway track bridge and conspiring, which is highly unbelievable. The basis for the above said case is not available on record. Without properly gathering the information, it appears that FIR has been registered in a hasty and hasty manner under sections 120(A) & 153 IPC and section 7(1)(a) of the Criminal Law Amendment Act, 2005.

7. Section 120-A IPC reads as under:-

"120-A. Definition of criminal conspiracy.—When two or more persons agree to do, or cause to be done,—

(1) an illegal act, or

(2) an act which is not illegal by illegal means, such an agreement is designated a criminal conspiracy:

Provided that no agreement except an agreement to commit an offence shall amount to a criminal conspiracy unless some act besides the agreement is done by one or more parties to such agreement in pursuance thereof.

Explanation.—It is immaterial whether the illegal act is the ultimate



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object of such agreement, or is merely incidental to that object."

8. Section 153 IPC reads as under:-

**"Section 153. Wantonly giving
provocation with intent to cause riot;-**

Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both, and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.



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9.If the de-facto complainant apprehended that some sort of conspiracy took place between the petitioners to create law and order issue, they ought to have taken preventive measures. Without taking the preventive measures, the case has been registered for the offences stated above, which is not proper. No bad antecedent has also reported against the petitioners. Making protest against the death of a school going girl may not amounts to illegal. By ex-aggregating the facts, FIR has been registered. In this case, the petitioners are aged about 21, 23, 25 and 29. Because of the registration of the case, their future may be affected. On that sole ground, continuation of the criminal proceedings may not be proper.

10.So without going into the other aspects, this petition is liable to be allowed. Accordingly, this criminal original petition stands **allowed**. The impugned FIR in Crime No.310 of 2022 on the file of the respondent is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petition is closed.

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

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- 1.The Inspector of Police,
Pasupathipalayam Police Station,
Karur Distr8ct.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGO VAN, J

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