



CrI.O.P.(MD)No.19173 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/12/2023

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

CrI.OP (MD)No.19173 of 2023

and

CrI.MP (MD)No.15119 of 2023

S.K.Arul Kennedi : Petitioner/A5

Vs.

1.The State,
Rep. by the Sub-Inspector of Police,
Town Police Station,
Pudukkottai District. : R1/Complainant

2.Chandra Sekaran,
The Sub Inspector of Police,
Town Police Station,
Pudukkottai District,
(Crime No.1260 of 2021) : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records and quash the First Information Report in Crime No.1260 of 2021, dated 08/10/2021 on the file of the Sub Inspector of Police, Town Police Station, Pudukkottai District, registered for the offences under sections 143, 283, 269 and 270 IPC and section 5(1) of Disaster Management Act, 2005, in so far as the petitioner is concerned and pass such other appropriate orders.

For Petitioners : Mr.A.Arul Jenifer

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



Crl.O.P.(MD)No.19173 of 2023

O R D E R

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.1260 of 2021 on the file of the Sub Inspector of Police, Town Police Station, Pudukkottai District.

2.The case of the prosecution in brief:-

On 08/10/2021 at about 01.15 pm, the petitioner and others under the head of one Ramachandran, who is the District Secretary of AITC assembled in front of the Pudukkottai Municipality and staged protest against the Pudukkottai Municipality to clear the earth sand taken out of a bit pit in the North Raja Street, Pudukottai, by violating the COVID-19 Protocol. Upon which, a case in Crime No.1260 of 2021 was registered for the offences under sections 143, 283, 269 and 270 IPC and section 51(b) of Disaster Management Act, 2005.

3.Seeking quashment of the same, this petition has been filed by the petitioner, who is arrayed as A5 on the ground that none of the allegations mentioned in the FIR attract any of the ingredients of the offences alleged against him.

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 right of which he is in possession or enjoyment, or to enforce any right or supposed right: or



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CrI.O.P.(MD)No.19173 of 2023

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. The petitioner along with others simply made protest against the Pudukottai Municipality demanding proper action. 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 along with others. So, that cannot be construed as 'unlawful or illegal'.

8. Section 283 of IPC reads as follows:-

"Section 283. Danger or obstruction in public way or line of navigation.-Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger,



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Crl.O.P.(MD)No.19173 of 2023

obstruction or injury to any person to any public way or public line of navigation, shall be punished with fine which may extend to two hundred rupees."

9.As far as the offence under Section 283 of [IPC](#) is concerned, there should be some clear and cogent material to disclose that obstruction was caused to any person in any public way.

10.Perusal of the records shows that there is no clear and cogent material to disclose that obstruction was caused to any person in the public way due to the alleged procession led at the instance of the petitioner and others. So the offence under Sec.283 of [IPC](#) *prima facie* is also not attracted.

11.As per section 269 IPC, maximum punishment period is six months or fine or both. But section 270 IPC upto two years or with fine or with both. There is no question of limitation here. But it is also seen that the Government has taken policy decision to withdraw the cases registered against the public for pandemic violation.



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Crl.O.P.(MD)No.19173 of 2023

12.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 as mentioned in the preamble portion, which is not permissible under law. On that sole ground, the entire prosecution is bad in law.

13.For the reasons stated above, this criminal original petition stands allowed. The impugned FIR in Crime No.1260 of 2021 is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

12/12/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.1,
Pudukottai.
- 2.The Inspector of Police,
Town Police Station,
Pudukkottai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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CrI.O.P.(MD)No.19173 of 2023

G.ILANGO VAN, J

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