



CrI.O.P.(MD)No.19146 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 30/10/2023

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

CrI.OP(MD)No.19146 of 2023

and

CrI.MP(MD)No.15096 of 2023

S.K.Arul Kennedi : Petitioner/A8

Vs.

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

2.A.Gurunathan,
The Inspector of Police,
Town Police Station,
Pudukottai District.
(Crime No.1270 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.1270 of 2021, dated 15/10/2021 on the file of the Inspector of Police, Town Police Station, Pudukottai District, registered for the offences under sections 143, 341, 269 and 270 IPC and section 51(b) of Management Disaster Act, 2005, in so far as the petitioner is concerned and pass such other appropriate orders.

For Petitioners : Mr.A.Arul Jenifer

For Respondents : MrR.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.1270 of 2021 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

On 15/10/2021 at about 11.30 am, the petitioner along with the members of the Association called 'Pudukkottai District Farmers Association' gathered and condemned the act of running over a Car upon the agriculturist, by the son of a Central Minister and also burnt the effigy of the Prime Minister of India during pandemic period without getting any permission from the concerned authority. Upon which, a case in Crime No.1270 of 2021 was registered for the offences under sections 143, 341, 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 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*



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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."

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. They have simply made agitation. 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'.



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8. 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.

9. For attracting the offence under section 341 IPC, there must be material to show that some one was restrained unlawfully. But there is no complaint by any of the public.

10. 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.

11. The learned Additional Public Prosecutor has fairly admitted that such a Government Policy decision



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has been taken by the Government and subsequently, G.O
has been passed.

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12.In view of the above said submission made by the learned Additional Public Prosecutor, this criminal original petition stands **allowed**. The impugned FIR in Crime No.1270 of 2021 is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

30/10/2023

Index:Yes/No
Internet:Yes/No

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To,

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



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G.ILANGOVAN, J

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