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Crl.O.P.(MD)No.18955 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 20/10/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.18955 of 2023

and

Crl.MP(MD)No.14974 of 2023

Dharani Murugesan @
Tharanimurugesan @
Murugesan

: Petitioner/A2

Vs.

1.The State rep. by
The Inspector of Police,
Bazaar Police Station,
Ramanathapuram District.
(Crime No.256 of 2023)

: R1/Complainant

2.Ramesh,
Sub Inspector of Police,
Bazaar Police Station,
Ramanathapuram District.

: 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 Crime No.256 of 2023 on the file of the 1st respondent and to quash the same as against the petitioner is concerned and pass such other or further orders.

For Petitioner : Mr.C.Senthil Murugan

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



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O R D E R

WEB COPY This criminal original petition is filed seeking quashment of the FIR in Crime No.256 of 2023 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The de-facto complainant, who is working as Sub Inspector of Police, lodged a complaint stating that on 04/09/2023 at about 10.30 am, when he was on routine surveillance, at that time, he found the petitioner along with others said to have put up a stage in the public road for conducting agitation against the Ramanathapuram Corporation and installed flex boards without obtaining prior permission. Over the above said occurrence, a case in Crime No.256 of 2023 was registered for the offences under sections 143 & 341 IPC and sections 3 & 3-A of the Tamil Nadu Open Places (Prevention of Disfigurement) Act, 1959.

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.



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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



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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. The petitioner along with others said to have put up a stage in the public road for conducting agitation against the Corporation. 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 341 IPC reads as under:-

"341. Punishment for wrongful restrain. -Whoever wrongfully restrains



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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. Similarly, section 341 is not attracted. There is no allegation to the effect that the petitioner along with others prevented the public from proceeding in a particular way.

10. Even though, the final report was filed within the period of limitation, perusal of the records shows that the alleged flex boards installed were not recovered and no witness was examined. Even if we take that the above said offence has been committed by the accused persons, in the absence of recovery of flex boards, there is no chance for conviction.

11. More-over, another important factor is that the place in which the above said flex board was put up is neither mentioned in the complaint nor in the FIR. No material has been collected during the course of investigation to show the place of occurrence. On that ground also, this petition is liable to be allowed.



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12.In the result, this criminal original petition stands **allowed**. The FIR in Crime No.256 of 2023 on the file of the 1st respondent is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

20/10/2023

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

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



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G. ILANGO VAN, J

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