



CrI.O.P.(MD)No.19801 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/11/2023

CORAM

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

CrI.OP (MD)No.19801 of 2023

and

CrI.MP (MD)Nos.15524 and 15525 of 2023

1.Jafar Shathik
2.Sabeer Rahuman : Petitioners/A14 & A15

Vs.

1.State rep. by
Inspector of Police,
Town North Police Station,
Dindigul District.
(In Crime No.774 of 2019) : R1/Complainant

2.N.Santhi,
Sub Inspector of Police,
Town North Police Station,
Dindigul 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 relating to the case in STC No.802 of 2019 on the file of the Judicial Magistrate No.II, Dindigul and to quash the same as against the petitioners and pass such further or other orders.

For Petitioners : Mr.K.Chengiz Khan

For Respondents : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



Crl.O.P.(MD)No.19801 of 2023

O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the case in STC No.802 of 2019 on the file of the Judicial Magistrate No.II, Dindigul.

2.The case of the prosecution in brief:-

On 15/11/2019, the petitioners along with others numbering about 209, who are members of an Association called 'Popular Friends of India' (PFI), gathered unlawfully, stayed Demonstration/Protest near Bell Tower at Dindigul Town, raising slogans and condemning the Supreme Court verdict, on 09/11/2019 with regard to the dispute site in Ayodiya. Based upon which, a case in Crime No.774 of 2019 was registered for the offences under sections 143, 341 and 283 IPC. After completing the investigation, final report was filed and it was taken cognizance in STC No.802 of 2019 by the Judicial Magistrate No.II, Dindigul.

3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that none of the allegations mentioned in the FIR or in the final report attract any of the ingredients of the offences alleged against them.



WEB COPY



Crl.O.P.(MD)No.19801 of 2023

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



WEB COPY



Crl.O.P.(MD)No.19801 of 2023

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 petitioners 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
any person shall be punished with simple**



Crl.O.P.(MD)No.19801 of 2023

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 was restrained unlawfully. But there is no complaint by any of the public.

10.Similarly, there is no allegation that the petitioners caused danger or obstruction to any person in any public way or public line of navigation. Therefore, the offence under section 283 IPC will not be attracted.

11.For the reasons stated above, this criminal original petition stands allowed. The case in STC No.802 of 2019 on the file of the Judicial Magistrate No.II, Dindigul is hereby quashed as against the petitioners. Consequently, connected Miscellaneous Petition is closed.

07/11/2023

Index:Yes/No
Internet:Yes/No

er



Crl.O.P.(MD)No.19801 of 2023

WEB COPY

To,

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



WEB COPY



Cr1.O.P.(MD)No.19801 of 2023

G.ILANGO VAN, J

er

Cr1.OP (MD) No.19801 of 2023

07/11/2023