



CrI.O.P.(MD)No.834 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.01.2023

Delivered on : 25.01.2023

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

CrI.O.P.(MD)No.834 of 2023

and

CrI.M.P.(MD)No.767 of 2023

G.Pandurangan

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.
Crime No.123 of 2022.

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records in Crime No.123 of 2022, dated 14.07.2022 pending on the file of the respondent and quash the same as illegal.

For Petitioner : Mr.R.Santhanam,



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For R1 & R2

: Mr.M.Muthumanikkam,
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to call for the entire records in Crime No. 123 of 2022, dated 14.07.2022 pending on the file of the respondent and quash the same as illegal.

2. The case of the prosecution is that when the first respondent was on his routine work with his police party, at about 16.15 hours, on 14.07.2022, he found that the petitioner, who is the District President of BJP Party of Virudhunagar East District along with 179 male and 33 female party workers, near Sub-Registrar Office situated at Virudhunagar- Madurai high way, were raising slogans against the State Minister KKSSR.Ramachandran, Minister of Revenue and Disaster Management, Government of Tamil Nadu, for his behavior and attitude against a woman belongs to the village of Balavanam, Virudhunagar District, while she was attempting to give a petition to him; that despite



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warning given by the first respondent, the members gathers under the leadership of the petitioner, had raised slogans against the Minister and also demanded to remove him from the post as Minister and hence, a case came to be registered in Crime No.123 of 2022, under Sections 143 and 151 IPC against the petitioner and 213 persons.

3. The main contention of the petitioner is that the FIR does not disclose that the petitioner along with 213 members had assembled with any common object of committing the acts shown under Section 141 IPC; that the ground offence of unlawful assembly itself does not have any materials to get substantiated, the rest of the offences will not stand; that there are no allegations that the petitioner and others had committed any act of violence and that there was no commotion in the crowd and they did not endanger the life of any persons or property.

4. The learned counsel for the petitioner would submit that the said assembly is a peaceful assembly without any disturbance to the common public in a common place, which is not declared or promulgated by any public servant; that they have assembled to express their displeasure



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regarding the action of sitting Minister in a democratic manner and that there was no complaint from the common public and no one was affected or disturbed by the peaceful assembly.

5. At this juncture, it is necessary to refer the decision of this Court in Crl.O.P(MD) No.12612 of 2022 (***Annadurai Vs.The Inspector of Police, South Gate Police Station, Madurai and another***), dated 06.09.2022 and the relevant passage is extracted hereunder :

“9.In the case on hand, the First Information Report has been registered by the respondents / police for the offences also under Sections 143 and 188 IPC. He is not a competent person to register FIR for the offences under Section 188 of IPC. As such, the First Information Report or final report is liable to be quashed for the offences under Section 188 of IPC. Further, the complaint does not even state as to how the protest formed by the petitioner and others is an unlawful protest and does not satisfy the requirements of Section 143 of IPC. Therefore, the final report cannot be sustained and it is liable to be quashed.”



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6. The learned counsel for the petitioner would submit that the petitioner and others have assembled in a place to express their displeasure over the action of the Minister in a democratic way and the same would not constitute an offence under Section 143 IPC.

7. As rightly contended by the learned counsel for the petitioner, the prosecution does not state as to how the demonstration conducted by the petitioner is an unlawful protest and as such, this Court has no other option, but to say, that the case of the prosecution does not satisfy the requirements of the Section 143 IPC.

8. Section 151 IPC contemplates that knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse. Section 151 IPC will be attracted only if there was evidence to show that the assembly had been “lawfully commanded to disperse”. But in the case on hand, there is no material to show that they have given any such command.



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9. Considering the above, this Court is of the view that it is a fit case to quash the proceeding as against the petitioner.

10. In the result, the Criminal Original Petition is allowed and the FIR in Crime No.123 of 2022 on the file of the Inspector of Police, Virudhunagar West Police Station, Virudhunagar District, is quashed. Consequently, connected Miscellaneous Petition is closed.

25.01.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
das

To

1.The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.O.P.(MD)No.834 of 2023
and
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Dated: 25.01.2023