



WEB COPY



Crl.O.P.(MD)No.21902 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05/12/2023

CORAM

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

Crl.OP(MD)No.21902 of 2023

Annavelu : Petitioner/A3

Vs.

1.State rep. by
Sub-Inspector of Police,
Velayuthampalayam Police Station,
Karur District.
(In Crime No.682 of 2020) : R1/Complainant

2.Mr.Murugan,
Sub-Inspector of Police,
Velayuthampalayam Police Station,
Karur 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 in the case in STC No.95 of 2021 on the file of the Judicial Magistrate Court No.II, Karur District and quash the same as illegal, violation of law as against the petitioner/A3.

For Petitioner : Mr.M.Jothi Basu

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



Crl.O.P.(MD)No.21902 of 2023

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.95 of 2021 on the file of the Judicial Magistrate No.II, Karur.

2.The case of the prosecution in brief:-

On 20/11/2020 at about 06.30 pm, the accused person conducted a demonstration in the Highways Road at Velayutham Palayam against the arrest of DMK Youth Wing Secretary, when the Covid-19 restrictions is in force. Based upon which, a case in Crime No.682 of 2020 was registered for the offences under sections 143, 270 IPC and section 3 of Epidemic Disease Act, 1897. After completing the investigation, charge sheet was filed and it was taken cognizance in STC No.95 of 2021 by the Judicial Magistrate No.II, Karur.

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 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



WEB COPY



CrI.O.P.(MD)No.21902 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 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. So, that cannot be construed as 'unlawful or illegal'.

8.As per section 270 IPC, maximum punishment period is 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.



WEB COPY



Crl.O.P.(MD)No.21902 of 2023

9.For the reasons stated above, this criminal original petition stands allowed. The case in STC No.95 of 2021 on the file of the Judicial Magistrate No.II, Karur is hereby quashed as against the petitioner.

05/12/2023

Index:Yes/No

Internet:Yes/No

er

To,

- 1.The Judicial Magistrate No.II,
Karur.
- 2.The Sub Inspector of Police,
Velayuthampalayam Police Station,
Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



CrI.O.P.(MD)No.21902 of 2023

G.ILANGOVAN, J

er

CrI.OP (MD) No.21902 of 2023

05/12/2023