



Crl.O.P.(MD)No.23116 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 21/12/2023

CORAM

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

Crl.OP(MD)No.23116 of 2023

and

Crl.MP(MD)Nos.17990 and 17991 of 2023

01.Ibrahim
02.Gopalsamy
03.Meerakani
04.Rajapandiyam
05.Balakrishnan
06.Abubocher Sidiq
07.Madhar Mydeen
08.K.Parthasarathi
09.Namasivayam
10.Mohammed Nainar : Petitioners/A3, A7 to A15

Vs.

1.The State Represented by
The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
(In Crime No.73 of 2022) : R1/Complainant

2.Mr.Arif Shahul Hameed,
Village Administration Officer,
Melakadayanallur,
Thenkasi District. : R2/De-facto Complainant

PRAYER:-Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the Impugned final report filed in STC No.1144 of 2023 on the file of the Judicial Magistrate Court, Tenkasi, in connection with Crime No.73 of 2022 on the file of the respondent police station and quash as against the petitioners are concerned and pass such further or other orders.



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

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.1144 of 2023 on the file of the Judicial Magistrate, Tenkasi.

2.The case of the prosecution in brief:-

The de-facto complainant, who is working as VAO of Melakadayanallur village lodged a complaint stating that on 12/03/2022 the accused persons objected the officials from measuring the land, which is proposed to acquire for National Highways Four-Lane project from Thirumangalam to Kollam. On the basis of the complaint given by the de-facto complainant, a case in Crime No.73 of 2022 was registered for the offences under sections 143 and 341 of IPC. After completing the investigation, charge sheet was filed and it was taken cognizance in STC No.1144 of 2023 by the Judicial Magistrate, Tenkasi.

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



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4.Heard both sides.

5.For attracting the offence under section 143 of IPC, the ingredients of section 141 of IPC must be fulfilled.

6.Section 141 of 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



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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 of IPC get attracted. The petitioners along with other accused persons only made objection for measuring the land. That cannot be construed as 'unlawful or illegal'.

8. Section 341 of 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



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extend to five hundred rupees or with both."

9. Similarly, section 341 of IPC is not attracted. There is no allegation to the effect that they prevented the public from proceeding in a particular way.

10. For the reasons stated above, this criminal original petition stands **allowed**. The case in STC No.1144 of 2023 on the file of the Judicial Magistrate, Tenkasi is hereby quashed as against the petitioners. Consequently connected Miscellaneous Petitions are closed.

21/12/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Judicial Magistrate,
Tenkasi.
2. The Inspector of Police,
Kadayanallur Police Station,
Tenkasi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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