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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.4512 of 2024
and Crl.MP.No.3319 of 2024

- 1.Thandavarayan
- 2.Seenu @ Tamilmani
- 3.Anand @ Anandan
- 4.Sathish @ Sakthimurugan
- 5.Sakthivel
- 6.Selvakumar
- 7.Charles
- 8.Kumaravel
- 9.Ezhumalai

.. Petitioners/Accused Nos.2 to 10

.Vs.

The State rep.by
The Inspector of Police
Orleanpet Police Station
Puducherry District.

..Respondent/Complainant

(Crime No.220/2020)

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records in connection with the charge sheet in STC No.3295 of 2022 on the file of the learned Judicial Magistrate No.II, Puducherry and quash the same insofar as the petitioners are concerned.

For Petitioners : Mrs.T.Lavanya

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

**ORDER**

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This petition has been filed to quash the proceedings pending in STC No.3295 of 2022, on the file of the learned Judicial Magistrate No.II, Puducherry.

2.The case of the prosecution is that during the pandemic period, the accused persons violated the prohibition orders and they assembled near the bus stand and started agitating against the implementation of road tax and also threatened to cause destruction to public property. Based on the complaint given by the police officer, the FIR came to be registered in Crime No.220 of 2020. On completion of investigation, final report has been filed before the Court below and the same has been filed in STC No.3295 of 2022. This proceedings has been put to challenge in this quash petition.

3.Heard Mrs.T.Lavanya, learned counsel for the petitioners and Mr.A.Gopinath, learned Government Advocate (Crl.Side) for the respondent.

4.This Court has already quashed the proceedings as against A1 even at the FIR stage in Crl.OP.No.9957 of 2022 by order dated 14.6.2023. For proper appreciation, the relevant portions are extracted hereunder:

2. The crux of the allegation in the F.I.R. is that the petitioner, during Covid pandemic, despite prohibitory order, has assembled at the entrance of the New Bus Stand in Maraimalai Adigal Salai and agitated against the implementation of road tax for the tourist vehicles, thereby, the F.I.R. has been registered against the agitators, for the offence punishable under Sections 143, 341, 270, 188, 283,



506 (i) and 149 of the Indian Penal Code along with Section 51 (b) of Disaster Management Act and Section 3 of Epidemic Disease Act.

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3. Heard Mr.B.Balavijayan, learned counsel for the petitioner and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor for the respondent.

4. For initiation of the complaint, under Section 188 of the Indian Penal Code, proper complaint ought to have been filed before the Court, as per Section 195 of the Code of Criminal Procedure. Without filing of such a complaint, Police cannot proceed with investigation under Section 188 of Indian Penal Code. Offence under Section 270 of the Indian Penal Code was fastened on the accused on the ground that the accused was loitering around when the spread of COVID 19 was at its peak, unmindful of the fact that he may catch COVID and may be a carrier for COVID 19. Therefore, merely being found in the street, without any other act on his part, it cannot be presumed that his act would likely to spread COVID.

5. In such view of the matter, no purpose would be served in continuing the F.I.R. Hence, the same is liable to be quashed. Accordingly, this Criminal Original Petition is allowed and the F.I.R. in Crime No.220 of 2020 on the file of respondent police is quashed against the petitioner/A.1 alone. Consequently, connected Criminal Miscellaneous Petition is closed.

5.The above reasoning that was given by this Court will equally apply to the petitioners also and hence, this Court is inclined to quash the pending proceedings against the petitioners in STC.No.3295 of 2022, on the file of the learned Judicial Magistrate No.II, Puducherry, and accordingly, this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

05.03.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
kp



N. ANAND VENKATESH,, J.

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To

- 1.The Inspector of Police
Orleanpet Police Station
Puducherry District.
2. Judicial Magistrate No.II
Puducherry.
3. The Public Prosecutor,
High Court of Madras,
Madras.

CrI.O.P No.4512 of 2024

05.03.2024