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Crl. O.P. No. 21717 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl. O.P. No. 21717 of 2024

and

Crl.MP.No.12428 of 2024

1.Suresh
2.Meganathan
3.Deepankumar
4.Maheswaran
5.Sathyanathan
6.Baskar
7.Balamurugan

.. Petitioner

Vs.

State rep., by
The Inspector of Police,
Egmore Police Station,
Chennai.

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in C.C. No. 1651 of 2020 on the file of the XIV Metropolitan Magistrate at Egmore and quash the same.

For Petitioners : Mr. P. Manesh

For Respondent : Mr. S. Udayakumar
Government Advocate



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ORDER

This Criminal Original Petition is filed to quash the C.C.No.1651 of 2020 on the file of XIV Metropolitan Magistrate, Egmore, Chennai on the ground that the complainant and the Investigating Officer are one and the same and therefore, the same will have to be quashed.

2. A perusal of the final report indicates that the case in Cr.No.46 of 2018 came to registered by one Siva Kumar, Sub-Inspector of Police attached to Egmore Police Station against the petitioners for offence under Sections 143, 188 of IPC and Section 41 of Tamilnadu City Police Act. The complainant and the person who has registered the FIR is one and the same. Thereafter, investigation also been done by the same person and final report filed which is contrary to the dictum laid down by the Hon'ble Supreme Court. Further, offence under Section 143 of IPC and 188 of IPC are in respect of unlawful assembly and disobedience to the order duly promulgated by public servant.

3. As per the ingredient of Section 143 of IPC, to punish a person



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under Section 143 of IPC, he must be member of an unlawful assembly.

Definition of unlawful assembly under Section 141 of IPC mandates that five or more persons must assemble with a common object to overawe by criminal force, or show criminal force, the Government or any public servant can exercise the lawful power, secondly, either they must resist the execution of any law or of any legal process.

4. A reading of the Final report shows that in protest of demolition of a temple, these eight persons have gathered and raised slogans when they were asked to disperse they tried to disturb the traffic.

5. The final report indicates that the police is relying upon five witnesses, all police officials and no public witness to overstate that there was disturbance to the traffic. While so, the ingredient to punish a person under Section 143 IPC is not available in the final report and the final report itself proceeds with infirmity of being filed based on the investigation done by the same police officer who has registered the FIR, namely the petitioner, C.C.No.1651 of 2020 on the file of XIV Metropolitan Magistrate, Egmore, Chennai is quashed.



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WEB COPY 6. Accordingly, this Criminal Original Petition to quash is allowed.

Consequently, the connected miscellaneous petition is closed.

05.09.2024

Vv

To

- 1.The XIV Metropolitan Magistrate,
Egmore.
- 2.The Inspector of Police,
Egmore Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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