



WEB COPY



Crl.O.P.No.20886 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2024

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THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.20886 of 2022

and

Crl.M.P.No.13675 of 2022

1.Ramasamy @ Chinnadurai

2.Raja @ Uthiravelu

... Petitioners

Vs.

State rep. By

The Station House Officer,

“D” Nagar Police Station,

Puducherry.

Crime No.26 of 2009.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records relating to the final report in C.C.No.94 of 2017 dated 19.07.2017 on the file of the Judicial Magistrate No.I, Puducherry and to quash the same.

For Petitioners : Mr.V.Elangovan

For Respondent : Mr.K.S.Mohandass

Public Prosecutor (Puducherry)

Assisted by Ms.N.Danalachumi

ORDER

The petitioners have filed this petition to quash the C.C.No.94 of 2017 dated 19.07.2017 on the file of the Judicial Magistrate No.I,



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Puducherry, having been taken cognizance for the offences punishable under Sections 153 IPC and 3(1) PDPP Act, 1984 r/w 34 IPC.

2. The case of the prosecution is that on 19.01.2009, the petitioners were joined together in furtherance of common intention made an effigy of Srilankan President Shri. Rajapakshe with garland of chaples and broom stick and hung the same on the right hand of the Rajiv Gandhi statue situated at Kamarajar Salai, Cycle Chain Factory Junction, Puducherry. Based on the above complaint the respondent registered a case in Crime No.26 of 2009 u/s 153 of IPC and 3(1) PD PP Act 1984 r/w 34 IPC. After the said FIR in the year 2009 final report was filed and the charge sheet was taken on file on 19.07.2017 and there is a delay of 8 years to submit the final report. Accordingly, the petitioners were charged under Section 153 IPC and 3(1) PDPP Act r/w 34 IPC. Hence, the complaint.

3. The learned counsel for the petitioners submitted that though the alleged occurrence was taken place in the public place at Kamarajar Salai, Cycle Chain Factory Junction, Puducherry, there was no eye witness to see the occurrence and further there is no evidence on the side of the



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prosecution, with an intention to cause riot the propagation was made for this purpose. Further, he also pointed out that, at the time of lodging of FIR, the petitioners name were not found in the FIR.

4. By way of reply, the learned Government Advocate Crl.Side appearing for the respondent submitted that the respondent police got a secret information that the petitioners were engaged in the said act, on that day through the petitioners' phone they have informed one Sivaraman who is a witness of the prosecution. Thereby the petitioners were implicated in this case, on proper information.

5. The learned counsel for the petitioners denied that the alleged phone number is not belonged to them.

6. On considering the entire final report, it reveals that there is no independent evidence to speak about, the involvement of the petitioners in the alleged occurrence. One of the witnesses L.W.3 is the reporter of the Dinathandhi and the 1st petitioner is employed as a reporter in the Dinamalar. Further, the learned counsel also submitted that as per the



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statement of Johnson there are details in Cell phone No.9994718787 from which phone he had called one Sivaraman. However, there is a call detailed submission made by the prosecution, but there is no proof on that day through phone call the petitioners informed the said Sivaraman that they committed the offences and there is no specific material evidence to prove on the side of the prosecution and there is no specific overt act against these two petitioners for the alleged occurrence, there is also no direct witnesses to prove the occurrence and therefore it cannot be prosecuted based on only assumption. Besides there is delay of 8 years to file final report. I do find it is vexatious one.

7. Accordingly, this Criminal Original Petition is Allowed. Consequently, the connected miscellaneous petition is closed.

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Index: Yes/ No

Neutral Citation: Yes/No

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