



CrI.O.P.(MD).No.18070 of 2022
& CrI.M.P(MD).No.12060 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Dated: 08.08.2024

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.(MD).No.18070 of 2022
& CrI.M.P.(MD).No.12060 of 2022

Mr.D.Jayakumar, (M/62 years),
S/o.Durairaj,
No.10, Leith Castle South Street,
Raja Annamalaipuram,
Santhome, Chennai – 600 028.

.... Petitioner/Accused No.1

/versus/

1. The State
Rep. by Inspector of Police,
Cantonment Police Station,
Trichy City, Trichy – 620 001.

2. Tmt.Akila,
The Sub Inspector of Police,
Cantonment Police Station,
Trichy City, Trichy – 620 001.

... Respondent/Complainant

R2 impleaded as per order dated 25.09.2023 in CrI.M.P.(MD).No.14420 of 2022 in CrI.O.P.(MD).No.18070 of 2022.

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records and to quash the First Information Report in Crime No.358 of 2022 dated 17.03.2022 pending on the file of the respondent and quash the same as against the petitioner.

For Petitioner : Mr.M. Aravind Subramaniam, Senior Counsel
for Mr.Adithya Varadarajan

For Respondents : Mr.K.M.D.Muhilan
Government Advocate (CrI.Side)



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ORDER

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This Criminal Original Petition is filed to quash the F.I.R in Crime No.358 of 2022 registered by the Inspector of Police, Cantonment Police Station, Trichy on 17.03.2022 for the offences under Section 143, 153, 504, 269, 270 of I.P.C and Section 3 of Epidemic Diseases Act, 1897 as against this petitioner and 10 other named persons and 100 unnamed persons.

2. The sum and substance of the complaint given by Smt.Akila, Sub-Inspector of Police attached to Cantonment Police Station, Trichy reads as below:-

Thiru.D.Jayakumar the petitioner herein was arrested in Crime No.81 of 2022 on the file of Tondiarpet Police Station. He was granted bail on condition to stay at Trichy and report before the Cantonment Police Station on every Monday, Wednesday and Friday at 10.30 a.m for a period of two weeks. On 14.03.2022, for the first time, the petitioner came to the police station for complying the bail condition, at that time, he came along with more than 100 supporters. The petitioner was informed that in future, he should not be accompanied more than two persons. However, for the 2nd time, when he came on 16.03.2022 to comply the bail condition, he came along with 10 named



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accused and 100 unknown accused, entered the station and raised slogan against the police. The members of the unlawful assembly which gathered violating the Prohibitory Order passed due the Covid-19 epidemic, started raising slogan, raising the petitioner and condemning the DMK government and the Chief Minister of Tamil Nadu Thiru.M.K.Stalin. They called the DMK Government as an inefficient Government and called the Chief Minister of Tamil Nadu as Anti-National. Taking offense of these utterance, the Sub-Inspector of Police has registered the case for the offences under Section 143, 153, 504, 269, 270 of I.P.C and Section 3 of Epidemic Diseases Act, 1897 in Crime No.358 of 2022 and taken up the matter for investigation.

4. To quash the said complaint, the present Criminal Original Petition No.18070 of 2022 is filed.

5. This Court, at the time of admission, restrained the respondent police from filing of file final report until further orders. In the quash petition, it is contended that it was not an unlawful assembly organised by the petitioner but a group gathered on their own hearing that the petitioner has come to the police station. Not able to digest this spontaneous gathering collected due to the popularity of the petitioner, the complaint in Crime No.358 of 2022 was



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registered due to political motive. The impugned F.I.R does not make out any offence with regard to the petitioner herein. The petitioner did not raised any slogans which according to the complainant has caused ill-will.

6. In the course of hearing the matter, the Learned Counsel for the petitioner had come forward to file affidavit sworn by the petitioner herein, recording his regret for the unforeseen and unfortunate incident which took place on 16.03.2022 inside the Cantonment Police Station, Trichy. The content of the affidavit sworn by the petitioner reads as below:-

“2. Even this incident would not have taken place but for the mischief of some unknown persons who had raised slogans to tarnish the image of the Respected Tamil Nadu Police. This incident was unforeseen and unfortunate and the same is regrettable.

3. I state that I have filed the present quash petition challenging the FIR registered in Crime No. 358 of 2022 dated 17-03-2022, pending on the file of the Cantonment Police Station, Trichy City. I further state that the memorandum of grounds may be read as part and parcel of this affidavit.



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4. I state that a complaint was lodged by the 2nd respondent on 17-03-2022 at 10:30 hours, based on which a FIR was registered for the alleged offences under section 143, 153, 504, 269, 270 of IPC and section Epidemic Diseases Act, 1897.

5. I state that I was granted bail by this Hon'ble High Court in Crl.O.P No. 5019/2022 and was directed to appear before the 1st respondent on every Monday, Wednesday and Friday at 10:30 am for a period of 2 weeks. I further state that, in compliance of the order passed, I appeared before the 1st respondent to sign every alternate day, for a period of 2 weeks. Except for that particular day i.e., 16.03.2022, which is the subject of this FIR, the rest of the days where I had to appear in compliance with the order went very peacefully. It was only due to the efforts of the Tamil Nadu police in erecting barricades and offering police support.”

7. Mr.K.M.D.Muhilan, Learned Government Advocate (Crl.Side) for the respondent referring the F.I.R registered by a public servant regarding the incident which took place inside the Police Station submitted that the gathering had raised slogans “Commenting against the Tamil Nadu Police, Commenting against the Government and Commenting against the Chief Minister of Tamil Nadu, Thiru.M.K.Stalin”. Whereas, the affidavit filed by the



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petitioner speaks only about the comment against the Police and not in respect of the slogans raised against the Government calling it as an inefficient Government and slogan against the Chief Minister of Tamil Nadu calling him as Anti-National. Therefore, he submit that the affidavit is not a regret in complete sense but only selective.

8. Per contra, the Learned Counsel for the petitioner submit that the petitioner at the outset has expressed his regret for the entire events took place on that day and the slogans raised by unknown persons. It need not be construed as restricted to the slogans against the Tamil Nadu Police alone. The Learned Counsel for the petitioner also submitted that but for that one particular day, a subsequent day when the petitioner gone to the police station to comply the bail condition, there was no unwanted and untoward incidents which would clearly show that the petitioner had no intention to cause any disturbance to the public peace or intention to spread any infectious disease.

9. The offences for which criminal complaint registered and the punishment prescribed for such offence is extracted below:-

Section 143 of I.P.C:-

Punishment.— Whoever is a member of



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an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Section 153 of I.P.C:-

Wantonly giving provocation with intent to cause riot-if rioting be committed; if not committed.- Whoever malignantly, or wantonly by doing anything which is illegal, gives provocation to any person intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both

Section 504 of I.P.C:-

Intentional insult with intent to provoke breach of the peace.- Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such



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provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 269 of I.P.C:-

Negligent act likely to spread infection of disease dangerous to life.-

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Section 270 of I.P.C:-

Malignant act likely to spread infection of disease dangerous to life.-

Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 3 of Epidemic Diseases Act, 1897.



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3. Penalty. (1) Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code (45 of 1860).

[(2) Whoever, - (i) commits or abets the commission of an act of violence against a healthcare service personnel; or

(ii) abets or cause damage or loss to any property, shall be punished with imprisonment for a term which shall not be less than three months, but which may extend to five years, and with fine, which shall not be less than fifty thousand rupees, but which may extend to two lakh rupees.

(3) Whoever, while committing an act of violence against a healthcare service personnel, causes grievous hurt as defined in section 320 of the Indian Penal Code (45 of 1860) to such person, shall be punished with imprisonment for a term which shall not be less than six months, but which may extend to seven years and with fine, which shall not be less than one lakh rupees, but which may extend to five lakh rupees.]

10. The overt act attributed against this petitioner is that when he



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went to the Cantonment Police Station, Trichy to comply the bail condition, he came along with more than 100 persons defying the orders of social distance imposed during the Covid-19 pandemic. This was done with a malign intention to spread the disease. The gathering of more than 100 persons is unlawful in view of the Prohibitory Order passed during Covid-19 pandemic. The slogans raised are in the nature of insulting and provoking the breach of peace.

11. The response of the petitioner is that the gathering was natural, not pre-planned and he never had the malign intention to spread any disease. Further, for the alleged utterance, he has expressed his regret. His subsequent conduct also fortifies that the incident which alleged to have been taken place on 16.03.2022 was neither intentional nor with any *mens rea*.

12. Accordingly, this Court is of the opinion that having regretted for the event by way of an affidavit duly sworn and the subsequent conduct of the petitioner deserve to be taken note of considering the Social and Political status of the petitioner herein.

13. With this observation, this ***Criminal Original Petition is***



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allowed. The complaint in F.I.R.No.358 of 2022, dated 17.03.2022 on the file of Cantonment Police Station, Trichy is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

08.08.2024

Index :Yes/No.

Internet :Yes/No.

bsm

To:-

1. The Inspector of Police, Cantonment Police Station, Trichy City, Trichy – 620 001.
2. The Sub Inspector of Police, Cantonment Police Station, Trichy City, Trichy – 620 001.
3. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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