



CrI.O.P.No.28805 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: **24.09.2024**

C O R A M

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.O.P. No.28805 of 2022

and

CrI.M.P.No.17645 of 2022

Jiyautheen(Sellappa)@Mohammed Jiayuddin

... Petitioner

Vs

1.The State rep. by
The Inspector of Police,
Chidambaram Town Police Station
Cuddalore District.

2.Sheik Sirajudeen

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, pleaded to call for the records Crime No.581/2022 on the file of the respondent and quash the same.

For Petitioner : Mr.P.G.Santhosh Kumar

For Respondents : Mr.A.Gopinath,
Government Advocate (CrI.side) for R1

R2-No appearance



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ORDER

The petitioner is arrayed as A1 in Crime No.581 of 2022, on the file of the first respondent police and he and others are said to have committed offence under Sections 341, 143, 188 of IPC.

2. According to the prosecution, he along with 25 named persons and 124 un-named persons unlawfully assembled on 17.08.2022 and raised slogans against the Government using unparliamentary words and also cautioned one of the ward member of Chidambaram and made agitation and caused hindrance to the public and movement of the vehicle. Hence, the Village Administrative Officer, Chidambaram gave a complaint to the first respondent police and the same was registered under Sections 341, 143, 188 of IPC. Challenging the said FIR, the petitioner has filed this Criminal Original Petition to quash the said FIR.

3.The learned counsel for the petitioner submitted that the first respondent police has no jurisdiction to register the case for the offence under Section 188 IPC. Further, the offence Sections 341, 143 are not made out for the reason that even as per the allegation, they only participated in



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the agitation raising slogans for 25 minutes to ventilate the grievance which does not amount to the offence either under Section 341 or Section 143 of IPC and he relied the judgement of this Court reported in 2018 (2) Law Weekly Crl 606 and 2010 9 SCC 567 and number of other unreported cases.

4.The learned Government Advocate (Crl.Side), submitted that even though Section 188 of IPC is added, the remaining offences are concerned, there is material and hence, he seeks to dismiss the quash petition.

5.This Court considered the rival submission and perused the materials available on record.

6.As per allegation, the petitioner and others assembled together and raised the slogans and caused disturbance to the public. The said allegation in the considered opinion of this Court cannot constitute any offence on the basis of the law laid by this Court in various decisions.

7.As per the law laid down by the Hon'ble Supreme Court in 2010 (9) SCC 567 and this Court in 2018 (2) LW Crl 606, as per Section 195 of Cr.P.C., the first respondent police has no jurisdiction to register the case.



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The Jurisdictional Magistrate Court alone has power to take cognizance under Section 188 of IPC on the basis of the private complaint as per Section 195 (1)(a)(i) of the Criminal Procedure Code. As per the Section 195 (1)(a)(i) of the Criminal Procedure Code, only a public servant can maintain a complaint and no Court shall take cognizance in the absence of the complaint filed by the said public servant

8.As regards the offence under Section 143 of the Indian Penal Code, it is seen that the allegation in the FIR does not state as to how the protest by the petitioners attracted the offence of unlawful assembly. A mere protest by a group of people would not amount to unlawful assembly. There is no allegation in the charge sheet for the offence under Section 143 of the Indian Penal Code. Consequently, no offence under Section 341 of IPC is made out.

9.Accordingly, the proceedings in Crime No. 581 of 2022 on the file of the first respondent police, is quashed in so far as the petitioner is concerned and the Criminal Original Petition is allowed. Consequently, the connected criminal miscellaneous petition is closed.

24.09.2024

Index : Yes / No

<https://www.mhc.tn.gov.in/judis>



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Internet: Yes

Speaking/non speaking order

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K.K.RAMAKRISHNAN, J.

shk/sbn

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- To
- 1.The Inspector of Police,
Chidambaram Town Police Station,
Cuddalore District.
 - 2.The Public Prosecutor
High Court, Madras.

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and

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