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Crl.O.P.(MD)Nos.8122 and 8164 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) Nos.8122 and 8164 of 2022
and
Crl.M.P.(MD)Nos.5475 and 5508 of 2022

Crl.O.P.(MD)No.8122 of 2022

- 1.Simon
- 2.Neelamegam
- 3.Bharathi
- 4.Arun Masilamani
- 5.Mohamed Nasar
- 6.Jayapandian

... Petitioners/A1 to A6

Vs.

- 1.The State Rep. By
The Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.
Crime No.190 of 2022

... 1st Respondent/Complainant

- 2.Surenthirakumar
Village Administrative Officer,
No.21, Innampoor Village,
Kumbakonam Taluk,
Thanjavur District.

... 2nd Respondent/Defacto Complainant



Crl.O.P.(MD)Nos.8122 and 8164 of 2022

PRAYER: Criminal Original Petition is filed under Section 482 of C.P.C., to call for the entire records pertaining to the impugned First Information Report in Crime No.190 of 2022 on the file of the first respondent police station and quash the same as against the petitioners/A1 to A6 are concerned.

Crl.O.P.(MD)No.8164 of 2022

1.Simon

2.Saravanan

3.Vignesh @ Poovicky

... Petitioners/A1 to A3

Vs.

1.The State Rep. By

The Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.
Crime No.189 of 2022

... 1st Respondent/Complainant

2.Govindaraj

Special Sub Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of C.P.C., to call for the entire records pertaining to the impugned First Information Report in Crime No.189 of 2022 on the file of the first respondent police station and quash the same as against the petitioners/A1 to A3 are concerned.



In both petitions:

For petitioners : Mr.Henry Tiphagne
For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor for R1
No Appearance for R2

COMMON ORDER

Since the issue involved in both the cases are one and the same, these petitions are disposed of by this common order.

2.The petitioners are arrayed as A1 to A6 in Crl.O.P.(MD)No.8122 of 2022, in Crime No.190 of 2022 for the offences punishable under Sections 143, 341, 153, 153B(1)(c), 120B of IPC and Section 7(1)(a) of the Criminal Amendment Act, 1932 and the petitioners in Crl.O.P.(MD)No.8164 of 2022, are arrayed as A1 to A3 in Crime No.189 of 2022, for the offences punishable under Sections 143, 341 and 353 of IPC and Section 7(1)(a) of the Criminal Law Amendment Act, on the file of the first respondent police respectively.

3.The case of the prosecution in Crl.O.P.(MD)No.8122 of 2022 is that the defacto complainant namely, one Surenthirakumar, who is working as the Village Administrative Officer, lodged a complaint before the respondent police stating that on 10.04.2022 at about 11.30 a.m., the



petitioners conducted the first anniversary of one Silambarasan, who died following a police chase and torture on 07.04.2021. They conducted continuous demonstrations with a very small number of people near Anna Statue without obtaining any permission due to the spontaneity of the action and further demanded to take action against the delinquent police officers for their involvement in the illegal act and consequential custodial murder of the said Silambarasan. Aggrieved by the same, the first respondent police obtained a complaint from the Village Administrative Officer and registered a case against the petitioners in Crime No.190 of 2022 for the above said offences.

3.2.The case of the prosecution in Crl.O.P.(MD)No.8164 of 2022, is that the defacto complainant, namely, Govindaraj, who is working as the Special Sub Inspector of Police at Kumbakonam Taluk Police Station, lodged a complaint before the first respondent police stating that on 10.04.2022 at about 09.45 a.m., the petitioners/A1 to A3 and other accused persons gathered together to conduct the first year homage meeting of the deceased Silambarasan at the Mathavan Seethaiyammal Marriage Hall. Further, it was alleged that they obstructed law and order. Aggrieved by the same, the first respondent police registered a case in Crime No.189 of 2022 against the petitioners for the above said offences.



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4.The learned counsel for the petitioners would submit that the deceased Silambarasan was engaged as a Mechanic and he belonged to the downtrodden community and there were few criminal cases pending against him in Sirkali, Mannarkudi and Kumbakonam Police limits and he was a history sheeted rowdy. Further, the deceased Silambarasan was a married man and has two children. He would further submit that the said Silambarasan was allegedly committed murder by the first respondent police by pelting stones; aggrieved by the inaction as against the erred officials, the deceased mother, namely, Valli filed a writ petition before this Court in W.P.(MD)No.7959 of 2021 for exhumation of the body and for conducting postmortem; and in that process, the petitioners, who are in the same village, made protest as against the inaction of the police; thereby, the present criminal cases were lodged against the petitioners. He would further submit that all the petitioners are innocents and they democratically assembled near the Anna statue and made continuous demonstrations as against the police officials, which is not in violation of law and the offences under Sections 143, 341, 353 153, 153B(1)(c) and 120B of IPC and Section 7(1)(a) of the Criminal Amendment Act, 1932 will not be attracted and the necessary requirements under Sections 143, 341 and 353 are not satisfied in the



present case and unless there is a prohibition, the assembly of the general public will not amount to unlawful assembly and the same cannot be culminated into registration of FIRs in Crime Nos.189 and 190 of 2022 against the petitioners. Accordingly, he prayed for allowing these petitions.

5.The learned Additional Public Prosecutor appearing for the State would submit that during the pendency of these petitions, the first respondent police have completed the investigation and filed a charge sheet before the concerned Court and C.C. Number was also assigned.

6.Heard the learned counsel on either side.

7.Perusal of the records revealed that earlier, the petitioners decided to conduct a demonstration in the internal hall and in order to prevent the protest, the respondent police sealed the premises and thereafter, all the persons assembled near Anna statue in Tharasuram Village and made demonstrations, thereby, the present criminal cases were registered against the petitioners. Admittedly, at the relevant point of time, there is no prohibitory order prohibiting the general public to assemble in a particular area. In the absence of prohibitory order under



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Section 144 of Cr.P.C., assembling few persons in front of the Anna statue and making a demonstration as against the respondent police will not amount to commission of the offences under Section 143, 341, 353, 153, 153(b)(1)(c) and 120(B) of IPC and Section 7(1)(a) of the Criminal Law Amendment Act, 1932. Even a bare perusal of the respective provision, the offences will not attract against the petitioners and in both the FIRs, the allegation against the petitioners is that they made demonstrations. Further, this Court, while entertaining these petitions, granted interim stay on 28.04.2022, even then, they filed a charge sheet which amounts to Contempt. However, in the criminal case, the charge sheet is only a consequential order.

8.In view of the above, this Court is inclined to quash the FIR against the petitioners. Accordingly, the FIR in Crime Nos.189 and 190 of 2022 are hereby quashed and these petitions are allowed. Consequently, connected miscellaneous petitions are closed.

23.02.2024

Index : Yes/No
Internet : Yes/No
NCC: Yes/No
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CrI.O.P.(MD)Nos.8122 and 8164 of 2022

M.DHANDAPANI. J.

Sji

To

- 1.The Inspector of Police,
Kumbakonam Taluk Police Station,
Thanjavur District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P.(MD)Nos.8122 and 8164 of 2022

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