



*Crl.O.P.(MD)No.14442 of 2024*

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 03.10.2024

Delivered on : 29.10.2024

CORAM

**THE HON'BLE MR.JUSTICE K.MURALI SHANKAR**

Crl.O.P.(MD)No.14442 of 2024  
and  
Crl.M.P.(MD)No.8998 of 2024

Karthikeyan

... Petitioner/47

Vs.

1.State rep by  
The Inspector of Police,  
Alagappapuram Police Station,  
Sivagangai District.  
Crime No.84 of 2022.

2.Ram kumar,  
Special Sub-Inspector of Police,  
Alagappapuram Police Station,  
Sivagangai District.

... Respondents

**PRAYER :** Criminal Original Petition filed under Section 528 of BNSS,  
to call for the records in S.T.C.No.61 of 2024 on the file of the Judicial  
Magistrate Court, Karaikudi and quash the same against the petitioner.

For Petitioner : Mr.P.Suresh

For R1 : Mr.P.Kottai Chamy  
Government Advocate (Crl. Side)



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**ORDER**

The Criminal Original Petition has been filed, invoking Section 528 of BNSS., seeking orders, to call for the records in S.T.C.No.61 of 2024 on the file of the Judicial Magistrate Court, Karaikudi and quash the same against the petitioner.

2. The case of the prosecution is that on 07.11.2022 at about 10.55 am, the accused persons without getting any permission, assembled in the Alagappa College Road, Karaikudi and made protest for not conducting convocation ceremony for more than three years in Alagappa University and thereby questioning the action of the Governor in not granting permission for the same.

3. The second respondent has registered an FIR in Crime No.84 of 2022 against 53 persons including the petitioner for the alleged offence under Sections 143, 147 and 341 IPC and after completing the investigation, the Sub-Inspector of Police has filed the final report and the same was taken on file in S.T.C.No.61 of 2024 and is pending on the file of the Judicial Magistrate, Karaikudi.



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4. The petitioner's case is that he is in noway connected with the alleged occurrence; that the prosecution has been launched with false allegations and even when the entire prosecution case is taken as a face value, the same would not constitute any offence; that the petitioner had never involved in any unlawful assembly and that there is no evidence that the petitioner restrained any person.

5. Regarding Section 143 IPC, the learned counsel for the petitioner would submit that mere gathering of more than five persons will not attract the Section of unlawful assembly and therefore, the offence under Section 143 of IPC is not at all attracted. It is necessary to refer the judgment of this Court in ***Crl.O.P(MD)No.12612 of 2022 (Annadurai Vs.The Inspector of Police, South Gate Police Station, Madurai and another)***, dated 06.09.2022 and the relevant passage is extracted hereunder :

*“9.In the case on hand, the First Information Report has been registered by the respondents / police for the offences also under Sections 143 and 188 IPC. He is not a competent person to register FIR for the offences under Section 188 of*



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*IPC. As such, the First Information Report or final report is liable to be quashed for the offences under Section 188 of IPC. Further, the complaint does not even state as to how the protest formed by the petitioner and others is an unlawful protest and does not satisfy the requirements of Section 143 of IPC. Therefore, the final report cannot be sustained and it is liable to be quashed.”*

6. The learned counsel for the petitioner would submit that the accused belonging to a particular party, had protested for not conducting convocation ceremony for Alagappa University for more than three years and the protest is a democratic right and as such, the same would not constitute an offence under Section 143 IPC.

7. As rightly contended by the learned counsel for the petitioner, the prosecution does not even state as to how the demonstration conducted by the party members is an unlawful protest and as such, this Court has no hesitation to say that the case of the prosecution does not satisfy the requirements of Section 143 IPC.



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8. Regarding Section 147 of IPC, the learned counsel for the petitioner would submit that there was absolutely no violence and there was no intention on the part of the accused to commit any offence.

9. As rightly contended by the learned counsel for the petitioner, the prosecution has not shown any material or evidence to show that the accused had shown any criminal force to commit any mischief, crime or any offence.

10. It is not the specific case of the prosecution that the accused had assembled to commit any offence. The prosecution has failed to establish *prima facie* that the assembly of five or more persons with a common object to commit any offence or any of the circumstances shown under Section 147, mere assembly of more than five persons cannot be construed that there is an unlawful assembly. Considering the above, when the Party people assembled to show the protest in a democratic way, such a protest, in the absence of any ingredients of offence under Section 147 cannot be construed as unlawful assembly.



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11. Now turning to the offence under Section 341 IPC, it is necessary to refer the following passage in ***Jeevanandham and Others vs State, represented by the Inspector of Police***, reported in ***2018(2) LW (Crl.) 606***.

“32.....

*2.In all the cases, the assembly of persons were expressing dissatisfaction on the governance and claiming for minimum rights that are guaranteed to an ordinary citizen. If such an assembly of persons are to be trifled by registering an FIR under Section 143 IPC and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution. A reading of the Final Report also does not make out an offence under Section 341 Cr.P.C since any form of an agitation, will necessarily cause some hindrance to the movement of the general public for sometime. That by itself, does not constitute an offence of a wrongful restraint.*



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12. The prosecution in order to invoke Section 341 I.P.C., has to establish that a person voluntarily obstructed any person so as to prevent that person from proceeding in any direction in which a person has a right to proceed. In the case on hand, as already pointed out, the party workers of (Naam Tamizhar Party) had assembled and conducted protest for not conducting of convocation ceremony for more than three years and there is absolutely no material to show that they have voluntarily obstructed any person. Even assuming that there existed some hindrance for the movement of the general public for some time, as rightly held in *Jeevanandham's case*, above referred that by itself does not constitute an offence of wrongful restraint. Hence, this Court has no hesitation to hold that the prosecution case does not make out any offence of the wrongful restraint.

13. Considering the above, this Court has no hesitation to hold that the proceeding in S.T.C.No.61 of 2024 on the file of the Judicial Magistrate Court, Karaikudi, is liable to be quashed.

13. In the result, this Criminal Original Petition is allowed and the proceeding in S.T.C.No.61 of 2024 on the file of the Judicial Magistrate



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Court, Karaikudi, is quashed as against the petitioner. Consequently, connected Miscellaneous Petition is closed.

**29.10.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
das

To

- 1.The Judicial Magistrate, Karaikudi.
- 2.The Inspector of Police,  
Alagappapuram Police Station,  
Sivagangai District.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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**K.MURALI SHANKAR,J.**

das

Order made in  
Crl.O.P.(MD)No.14442 of 2024  
and  
Crl.M.P.(MD)No.8998 of 2024

Dated: 29.10.2024