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Crl.O.P.(MD)No.15749 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 15.10.2024

Delivered on : 30.10.2024

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.15749 of 2024

and

Crl.M.P(MD)No.9915 of 2024

M.Guna

: Petitioner/A11

Vs.

The Inspector of Police,
Tenkasi Police Station,
Tenkasi District.
Crime No.306 of 2024.

: Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the entire records in relating to the FIR in Crime No.306 of 2024, dated 24.06.2024 under Sections 143, 283 and 341 IPC pending on the file of the respondent police and quash the same so far as the petitioner/A11 concerned.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Criminal Side)



Crl.O.P.(MD)No.15749 of 2024

ORDER

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This Criminal Original Petition has been filed, invoking Section 528 of BNSS., seeking orders, to call for the entire records relating to the FIR in Crime No.306 of 2024, dated 24.06.2024 under Sections 143, 283 and 341 IPC pending on the file of the respondent police and quash the same as against the petitioner.

2.The case of the prosecution is that on 24.06.2024 at about 13.00 hours, Thiru.Kumaresan, Special Sub-Inspector of Police and Thiru.Thangaraj, Head Constable and Thiru.Madasamy, Constable were on patrol duty in Tenkasi old bus stand to Kuthukalvalasai Road, the petitioner and other accused had disturbed the public by creating traffic jam for condemning the State Government for the death of some people by consuming illicit liquor in Kallakurichi District.

3.The Special Sub-Inspector of Police has registered a FIR in Crime No.306 of 2024 against 14 persons, including the petitioner for the alleged offence under Sections 143, 283 and 341 of IPC.



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4. The case of the petitioner is that he is innocent and he has been falsely implicated in the above case; that due to political vengeance, the above false case has been foisted against him and that the petitioner is not having any bad antecedents.

5.The learned counsel for the petitioner would submit that the respondent police has not shown any *prima facie* case to lodge the FIR against the petitioner. Even according to the prosecution, in the FIR, there was no intention and there was no criminal force and as such, Section 143 of IPC would not attract; that there is absolutely no material or evidence to show that there was a danger or obstruction made in the public way and as such, Section 283 of IPC would not also attract; that the protest was made peacefully and there was no wrongful restrained or if any person and Section 341 would also not attract.

6. Regarding Section 143 IPC, the learned counsel for the petitioner has relied on 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 :



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“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 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 protest by the accused for contemning the deaths due to the consuming of illicit liquor, is a democratic right and the same would not constitute offence under Section 143 IPC.

7. As rightly contended by the learned counsel for the petitioner, the prosecution does not say as to how the demonstration conducted by the accused 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 of IPC.



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Crl.O.P.(MD)No.15749 of 2024

8. 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.



9. 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 accused had assembled and conducted agitation protesting the Government for the deaths due to the consumption of illicit liquor 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*, that by itself does not constitute an offence of wrongful restraint. Considering the above, this Court has no hesitation to hold that the prosecution case does not make out any offence of the wrongful restraint.

10. Now turning to the offence under Section 283 IPC, there should be some clear and cogent material to disclose that obstruction was caused to any person in any public way. In the case on hand, as rightly contended by the learned counsel for the petitioner, there is absolutely no clear and cogent material to disclose that the obstruction was caused to any person in the public way due to the alleged assembly and as such, the offence under Section 283 of IPC would also not be attracted.



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11. The learned Government Advocate (Criminal Side) would rely on the decision of this Court in Crl.O.P(MD)No.13825 of 2024, dated 22.08.2024 9M.Murugaraj Vs. State rep.by the Inspector of Police, Sankarankoil Town Police Station, Tenkasi District, wherein, the learned Judge, in a similar case existed under Sections 143, 283 and 341 of IPC, has observed as follows :

4. When the matter came up for hearing, the learned Government advocate(Crl. side) submits that the investigation in this case has been completed and the charge sheet is about to be filed. But, however, on a perusal of the First Information Report, it can be seen that there is no allegation of indulging in any damage to the public property or any other offence except to stage a democratic protest. When the protest falls within the democratic right of a political organization, registering the FIR against 104 persons and prosecuting them would militate against the fundamental right to form an association / peaceful democratic protest and therefore, finding that no offence as mentioned in the FIR is made out and that the Dharna is only a peaceful democratic protest, I am inclined to quash the First Information Report. Useful reference in this regard can be made to the Judgment of this Court in Nazeer @ Nameer Vs. State (Crl.A.No.403 of 2019), more particularly paragraph No.7.



Crl.O.P.(MD)No.15749 of 2024

WEB COPY

12. Considering the above, this Court has no hesitation to hold that the impugned FIR in Crime No.306 of 2024, for the offence under Sections 143, 283 and 341 IPC pending on the file of the respondent police is liable to be quashed.

13. In the result, the Criminal Original Petition stands allowed and the FIR in Crime No.306 of 2024 on the file of the respondent police is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

30.10.2024

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

To

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



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Crl.O.P.(MD)No.15749 of 2024

K.MURALI SHANKAR,J.

das

Pre-delivery order made in
Crl.O.P.(MD)No.15749 of 2024
and
Crl.M.P(MD)No.9915 of 2024

Dated: 30.10.2024