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Crl.O.P.(MD)No.19052 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19052 of 2024

and

W.M.P(MD).No.11776 of 2024

X.Richard Dharmaraj

: Petitioner

Vs.

1.The State

rep., by the Inspector of Police,
Dindigul Taluk Police Station,
Dindigul.
(Crime No.78of 2018)

2.P.Muthamil Selvi

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the records of the FIR in Crime No.78 of 2018 on the file of the
first respondent police and quash the same as against his petitioner alone.

For Petitioner : Mr.M.Mohamed Sherbudeen

For R-1 : Mr.K.Sanjai Gandhi
Government Advocate (crl.side)



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ORDER

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The petitioner, who is Accused No.13 in Crime No.78 of 2018 for the offence under Sections 341, 143 and 188 of IPC, had filed this quash petition.

2. The case projected against the petitioner is that on 23.01.2018 at about 09.30 am., the defacto complainant/ Sub Inspector of Police, Dindigul Taluk Police Station, along with two other head constable were on patrolling duty in RMTN Nagar Bus Stop, at that time, they found that the petitioner and other 22 accused had formed unlawful assembly, without any prior permission and conducted road roko, against the increase in bus fare. Road roko caused disturbance to the public and movement of the vehicles and thereby, they violated Section 30(2) of Tamil Nadu Police Act. Despite warning to disperse, they failed to do so. Hence, case registered against them for the offence under Sections 341, 143 and 188 of IPC in Crime No.78 of 2018.

3. The contention of the petitioner is that the petitioner has been primarily charged for forming unlawful assembly causing wrongful restraint and nuisance to the general public. On information complaint had



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been lodged and there is no incident took place to show public were restrained from proceeding to their destination. No untoward incident happened, no public gave complaint stating that they were wrongfully restrained. It is further submitted that prohibitory orders under Police Act not published in the manner required. The case projected against the petitioner is under presumption and assumption and not on any material facts. Further, if there is any prohibitory orders, it should be properly published, informing the public that such order is in force. The learned learned counsel appearing for the petitioner referred the case reported in **2018 2 LW (Crl) 606 [Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018**, wherein violation of Section 30(2) of Tamil nadu Police Act, will not constitute offence under Section 143 of IPC. Further, Section 188 not attracted. Even after registering the FIR, the respondent police not taken any further action. The petitioner is unable to get employment due to the pendency of the case. The petitioner filed an application before the learned Judicial Magistrate No.I, Dindigul, seeking for certified copy of the FIR and charge sheet. The trial Court returned the same application that FIR is yet to be received, it confirms after registration of the FIR, nothing has been done. Further, on the point of limitation, the respondent



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cannot now filed any charge sheet. In support of his case, the learned counsel produced a copy of the judgment reported in **2018 2 LW (Crl) 606** ***[Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District] dated 20.09.2018.***

4. The learned Government Advocate (Crl.side) appearing for the respondent police would submit that the defacto complainant, who is the Sub Inspector of Police, while on patrol duty found the petitioner along with other accused persons assembled without any permission and conducted road roko protesting the increase of bus fare. In this regard, case registered in Crime No.78 of 2018 for the offence under Sections 341, 143 and 188 of IPC. In this case, investigation completed, but charge sheet not filed so far. He fairly submitted that no public has given complaint that they were restrained and there is no traffic disturbance. He would fairly submit that this Court in similar grounds quashed the proceedings based on the citations referred by the learned counsel appearing for the petitioner.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.side) appearing for the respondent



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6. Perused the materials on record

7. Considering the submissions made on either side and materials placed before this Court, the petitioner along with other accused persons formed unlawful assembly to protest the increase of bus fare. It is a democratic form of protest, they have right to do so, which cannot be scuttled or throttled on imaginary grounds. The settled proposition propounded by the Hon'ble Apex Court and this Court is that the democratic process cannot be scuttled. Further, there is no material to show that prohibitory orders, published in the manner known to law restricting to hold Dharna and assembly of people. There is no complaint by the public that they were restrained and the petitioner caused disturbance. Hence, in this case, Sections 188, 341 and 143 of IPC are not attracted. The facts of this case is similar to the facts covered by the Judgment of this Court reported in **2018 2 LW (Crl) 606 [Jeevanandham and others vs. The Inspector of Police Velayuthampalayam Police Station, Karur District]** dated 20.09.2018 and in case of **Sri Raja vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District**



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and other in batch of cases in Crl.O.P(MD) No.7922 of 2019 dated

30.08.2019. Accordingly, the proceedings in Crime No.78 of 2018 on the file of the respondent police is hereby quashed not only against the petitioner, but against the all the accused in this case, who are similarly placed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

8. The above case cannot be quoted against the petitioner and others as an impediment in their future education and employment.

06.11.2024

NCC : Yes/No
Index : Yes / No
Rmk

To

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



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M.NIRMAL KUMAR,J.

Rmk

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