



Crl.O.P.(MD)No.20490 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20490 of 2024

and

Crl.M.P.(MD)No.12656 of 2024

1.Arunprasath
2.Susila
3.Navaneethakrishnan

... Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by the Inspector of Police,
Fort Police Station, Trichy City,
Trichy District.
(Crime No.1490 of 2021)

2.K.Subramanian,
Special Sub-Inspector of Police,
Fort Police Station, Trichy City,
Trichy District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records relating to S.T.C.No.2568 of 2024, on the file of the Judicial Magistrate Court No.I, Trichy, and quash the same as against the petitioners are concerned.



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For Petitioners : Mr.M.Karthikeya Venkitachalapathy

For R1 : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal side)

ORDER

The petitioners / A1 to A3, who are facing trial in S.T.C.No.2568 of 2024, for the offences under Sections 143, 341, 269 and 270 I.P.C. and Section 41(6) (a) of the Tamil Nadu City Police Act, 1888 and Section 3 of the Epidemic Disease Act, 1897 and Sections 134(1)(a) and 135 of the Tamil Nadu Public Health Act, 1939 and Section 51(b) of the Disaster Management Act, 2005, have filed the present quash application.

2. The case against the petitioners is that on 18.12.2021, between 05:20 p.m. and 05:50 p.m., the petitioners, along with six other male members and two female members, participated in a protest near Chinnathamani Anna Statue without obtaining permission or approval. The protest allegedly caused a disturbance to traffic and contributed to the spread of the Corona virus, as the participants did not maintain social distancing or take necessary precautions. The protest was reportedly in



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response to the death of three school children who were studying in a private school in Tirunelveli, caused by the collapse of a bathroom wall. Despite an order to disperse, the petitioners failed to do so, leading to the registration of a case.

3. The learned counsel for the petitioners contends that while the petitioners are said to have been present along with eight others, they have been singled out for prosecution, which is unfair and amounts to a pick-and-choose method. He further points out that on the day of the protest, Section 144 Cr.P.C. had been invoked, and the restrictive orders were properly publicized. However, there is no evidence to support claims of disturbance to public movement or vehicular traffic. The learned counsel for the petitioners submits that the protest was for only about half an hour, and there are no public complaints regarding any disruption or health hazards caused. The three witnesses provided by the prosecution are all from the Police Department, and no public witnesses were examined. Furthermore, there is no evidence showing that the petitioners' protest contributed to a spike in COVID-19 cases, and the petitioners have been falsely implicated for statistical reasons.



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4. The learned Government Advocate (Criminal side) submits that the petitioners participated in the protest on 18.12.2021, supporting the families of the three school children who had died due to the collapse of the bathroom wall. The learned Government Advocate (Criminal side) highlights that such protest has been held during the COVID-19 pandemic period. It is widely known that during the COVID-19 pandemic, restrictions were in place on public gatherings and more than five people were not allowed to assemble in public spaces. Despite this, the petitioners formed an unlawful assembly, obstructing traffic and disrupting public movement. By failing to take any precautionary measures for the health and safety of others, they created the potential to accelerate the spread of the epidemic. The three Police witnesses corroborate each other's statements and confirm the petitioners' involvement in the protest. However, the learned Government Advocate (Criminal side) fairly acknowledges that no other cases are pending against the petitioners, and that they left the scene shortly after the protest.



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5. Considering the above submissions and on perusal of the materials, it is seen that while the petitioners were part of a protest, the complaint specifically mentions that there were five other people present, but no action was taken against them. The petitioners were protesting in response to a tragic incident, namely, the death of three young children, who were studying in a private school in Tirunelveli, due to the collapse of a bathroom wall. The petitioners were merely protesting against the public authorities for failing to take the children's deaths seriously and for not conducting proper checks on school buildings and toilet facilities. In a democratic society, the right to protest is a fundamental right and an accepted norm, which cannot be suppressed through criminal prosecution. Furthermore, there is no evidence to show that Section 144 Cr.P.C. restrictions were in place on the day of the incident. After the brief protest, there is no indication that the petitioners' actions caused any increase in the spread of the epidemic. The petitioners' act cannot be termed to be a criminal one.

6. In view of the above, this Court is inclined to quash the proceedings against the petitioners in S.T.C.No.2568 of 2024, on the file



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of the Judicial Magistrate Court No.I, Trichy. Accordingly, the proceedings are quashed, and the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes / No
Index : Yes / No
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25.11.2024

To

- 1.The Judicial Magistrate No.I,
Trichy.
- 2.The Inspector of Police,
Fort Police Station, Trichy City,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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