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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE **M. NIRMAL KUMAR**

Crl.O.P.(MD) No.19141 of 2024
and
Crl.M.P(MD) No.11810 of 2024

1. Shyam Krishnasamy
2. Athikumar @ AthikaranAthi Kumar
3. Chelladurai
4. Madasamy ...Petitioners

Vs.

The State Rep. by
1. The Inspector of Police
   Kovilpatti East Police Station
   Thoothukudi Dsitrict

2.N. Ponraj ...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C(under Section 528 of BNSS) praying to call for the records pertaining to the impugned First Information Report in Crime No.458 of 2024 on the file of the respondent police and quash the same.

For Petitioners : Mr.K.Prabhu

For Respondents No.1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor

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ORDER

This Criminal Original Petition has been filed to quash the proceedings in Crime No.458 of 2024 on the file of the respondent police.

2. The petitioners/accused in Crime No.458 of 2024 for the offences under Sections 189(2),126(2) and 292 of BNS filed this petition to quash the application.

3. The case projected against the petitioners is that the petitioners are office bearers of Puthiya Tamizhagam Policital party. They intended to hold protest against the murder of one of their party member on 30.09.2024. Hence permission was sought on 25.09.2024 which was rejected on 28.09.2024 since there was prohibitory orders pursuant to law and order problem and disturbance to public. Despite the same, the first petitioner/Special invitee, second petitioner/ Joint Secretary , third petitioner/ District Secretary, fourth petitioner/District Secretary of the political party along with 130 members had hold dharna on 30.09.2024 near ESI Hospital, Kovilpatti at about 11.50a.m., When they were reminded about the prohibitory orders the political party continued their protest causing disturbance to the general public and public disorder. Hence the case has been registered.

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4. The contention of the petitioners 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 been lodged and there is no incident after the protest to show that the public were restrained from going to their destination they intended and no untoward incident happened. It is further submitted that prohibitory orders under police act was not published in the manner required. The case projected against the petitioners are under presumption and assumption and not on any material facts. Further the democratic right of the political party cannot be scuttled or throttled on imaginary grounds. The settled proposition of the Hon'ble Apex Court and this Court is that the democratic process cannot be scuttled. Further if there is any prohibitory orders it should be properly published knowing to the public that such order is in force. The learned learned counsel appearing for the petitioners would further submit that the facts of the case are exactly similar to the case covered in the decision 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 the case of ***Sri Raja vs Inspector of Police, Sivakasi Town Police Station Virudhunagar District and other*** in batch of cases in ***Crl.O.P(MD) No.7922 of 2019 dated 30.08.2019***

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3. The learned Additional Public Prosecutor appearing for the respondent police would submit that the defacto complainant who is the Sub Inspector of Police while on patrol duty found large gathering in a public place without any permission to hold dharna and they were reminded about the prohibitory orders in force. The petitioners herein attempted to raise slogans against the police for the murder of one of their political party members. However he submited that democratic process cannot be scuttled without following the procedures. He would fairly submit that this Court in similar grounds quashed the proceedings based on the citations given by the learned counsel appearing for the petitioner.

4.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

5. Perused the materials on record

6.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 and other in batch of cases in***

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Crl.O.P(MD) No.7922 of 2019 dated 30.08.2019. Accordingly, the proceedings in Crime No.458 of 2024 on the file of the respondent police is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

07.11.2024

Internet:Yes
Index:Yes/No
Speaking/Non speaking order
aav

To

1. The Inspector of Police
   Kovilpatti East Police Station
   Thoothukudi Dsitrict

2.The Additional Public Prosecutor
  Madurai Bench of Madras High Court
  Madurai

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M. NIRMAL KUMAR.J.,

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Crl.O.P.(MD) No.19141 of 2024

07.11.2024

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