



Crl.O.P.(MD)No.20448 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20448 of 2024
and Crl.M.P(MD) No.12634 of 2024

M.S Pandian

... Petitioner

Vs

1. The State of Tamil Nadu,
Rep by the Inspector of Police,
Mathichayam Police Station,
Madurai District.
Crime No. 492/2022.

2. A.Nagaraj

... Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the case in Crime no.492/2022 dt.19.10.2022 on the file of the 1st respondent police and to quash the same in so far as the Petitioner/Accused.

For Petitioner : Mr.P.Balamurugan

For R1 : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor



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ORDER

The petitioner, who is an Accused in Cr.No.492/2022 for the offence punishable under Sections 143, 341, 290, 291 IPC, has filed this quash petition.

2.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the first respondent.

3.The case projected against the petitioner is that on 19.10.2024 at 09.00a.m., the Sub Inspector of Police along with party was on patrol duty. At that time, he had received an information from Special SI of Police that the petitioner along with his party members, 67 male and 27 female persons, totally 86 persons, had formed an assembly without getting prior permission from the Government had raised slogans against the present Government, thereby, they had a road-rogo and the traffic was obstructed and they caused disturbance to the transport and public movement.



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4.The specific case of the respondent is that the protest was hold within the office of AIDMK. None of the public had allowed to move and they were restrained from moving, likewise, transport was also restricted, showing of protest by a registered political party in a democratic country is permissible. They had raised slogans for not recognising one of the member as a Opposition leader and nothing else. Subsequent to the Protest, there is no untoward incident in any manner. Hence, this Court in Crl.O.P(MD) No.23303 of 2023, dated 22.12.2023, in a similar circumstances had quashed the proceedings and the same has been produced before this Court.

5.The learned Additional Public Prosecutor submitted that after the conclusion of investigation, final report has been filed against the petitioner and 85 others and the same has been taken on file as STC No.5496 of 2024, on the file of Judicial Magistrate No.II, Madurai. However, he fairly conceded that the complaint was lodged only by the Sub Inspector of Police and not by any public persons. Totally there are 15 witnesses have been examined, in which, two persons were stated about the holding of Dharna by the petitioner and others and the other



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persons are the police officials. There is no witness to show that there was obstruction in the vehicle and public movement.

6.Considering the submissions, the aforesaid two persons projected as eye-witnesses are the local shop owners, who are at the mercy of Police. Other than those persons, no public stated about the incident in any manner. In a democratic country, holding Dharna is an accepted form of raising objection and it cannot be considered as an offence.

7.This Court has already dealt with similar cases and quash the proceedings for the reason that the voice raised against the political party or Government by the petitioner cannot be construed as unlawful or illegal, it is a democratic right of a citizen. Further, in this case, none of the facts were available to show that any public had stated that they were prevented from proceeding in a public way and public nuisance has been created by the petitioner and other accused persons.



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8.In view of the same, this Court hereby quash the entire proceedings in Cr.No.492 of 2022, on the file of the first respondent, consequently, the case in STC No.No.5496 of 2024, on the file of Judicial Magistrate No.II, Madurai is also hereby quashed in its entirety, not only against the petitioner, but also the other accused persons. Consequently, connected miscellaneous petition is closed.

NCC : Yes / No

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Index : Yes / No

PNM

To

1.The Judicial Magistrate No.II, Madurai

2.The Inspector of Police,
Mathichayam Police Station,
Madurai District.
Crime No. 492/2022.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

PNM

Order in
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