



Crl.O.P.(MD)No.20786 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20786 of 2024
and Crl.M.P(MD).No.12860 of 2024

1.K.Sathaiya
2.K.Alagu
3.K.Selvam

: Petitioners

Vs.

1.State of Tamil Nadu,
The Inspector of Police,
Arimalam Police Station,
Pudukottai District.
Crime No.84 of 2024

2.M.Rengasamy

: Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the impugned first information report in Crime No.84 of 2024 dated 05.08.2024 on the file of the first respondent registered under Section 189(2) and 126 of the Bharatiya Nyaya Sanhita (BNS) , 2023 and quash the same as illegal as far as the petitioners are concerned.

For Petitioner : Mr.T.Thirumurugan

For R1 : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

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The petitioners, who are A1 to A3 in Crime No.84 of 2024 for the offences under Sections 189(2) and 126 of BNS Act, had filed this petition.

2. The case against the petitioners is that on 05.08.2024, the Village Administrative Officer of Senkeerai Vattam, Thirumayam Taluk, had given a complainant stating that under him Senkeerai, Rayavaram, Rayaragunatha samuthiram Village are there. A portion of the land in Senkeerai Panchayat was allowed with Rayapuram Panchayat group and in this regard, orders obtained by the Rayapuram Panchayat Thalaivar through the Court. Based on the Court order, the District Collector of Pudukottai, in Na.Ka.No.4466/2022/m2(C), dated 19.12.2022, had grouped certain survey numbers to Rayapuram Panchayat, in which Subramanian Polytechnic College is also situated. The revenue tax was paid by the said college to Sengeerai Panchayat and thereby, Sengeerai Village got affected. In this regard, the first petitioner, who is the Ward Member, second petitioner, who is the Panchayat President and the third respondent, who is the son of the first petitioner along with 200 persons of their village had conducted tharna at about 11 am., before the Primary



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School, which caused disturbance to the movement of public and vehicles.

The protest was to recall the Collector order. Hence, complaint was lodged and case has been registered.

3. The contention of the petitioners is that on the representation of the petitioners, the Revenue Inspector of Sengeerai Region on 11.03.2020 had given a report that S.No.259 /9 falls within the Sengeerai village and not under Rayavaram Panchayat. During the survey, the Deputy Block Development Officer and Village Administrative Officer were present and recorded the statement. A report has been submitted to the Tahsildar, who in turn had given report to the Block Development Officer, which had confirmed the Survey No.259/9 comes under the Sengeerai Panchayat. The Block Development Officer vide in Na.Ka.No.767/20185/தீ4, dated 17.06.2020, had written communication to the Assistant Director (Panchayat), seeking clarification. In the meanwhile, the Collector had passed order in contra to the field report and revenue officials finding that S.No.259 /9 is not within the Sengeerai Panchayat and hence, the protest. He further submitted that showing protest in democratic society is a fundamental right and there is no public restrained. The learned learned counsel appearing for the petitioners in support of his contention had



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relied upon 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

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.

4. The learned Additional Public Prosecutor submitted that on the complaint of the Village Administrative Officer, case was registered.

5. Heard both sides and perused the materials available on record.

6. Considering the facts and circumstances of the case, this Court is of the view that showing protest by holding tharna is permissible, which cannot be construed and projected as illegal act. In this case, case projected is that the movement of the public was restrained to proceed further in the direction as they intended and movement of vehicle has been affected. No public had lodged complaint stating about the incident, in such circumstances, claiming that the petitioner holding tharna and caused public nuisance would not be proper. Accordingly, the proceedings in



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Crime No.84 of 2024 on the file of the first respondent police is hereby quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

28.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
Rmk

To

- 1.The Inspector of Police,
Arimalam Police Station,
Pudukottai District.
- 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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