



Crl.O.P.(MD)No.20764 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.20764 of 2024

and

Crl.M.P(MD) Nos.12849 and 12850 of 2024

1. Barakash Nisha
2. Kathija Banu
3. Sarina Beevi
4. Murshitha Parveen
5. Seyyadhammal
6. Ayisha Beevi
7. Aliya Banu

.. Petitioners

Vs

1. The Inspector of Police
Sikkal Police Station
Ramanathapuram District

2. Karthik Kumar

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, calling for the records relating to the Impugned Charge Sheet in STC No. 355/2022 on the file of the District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District in FIR in Crime No.168/2021 dt. 14.12.2021 on the file of the first respondent police and quash the same.



Crl.O.P.(MD)No.20764 of 2024

For Petitioners : Mr.K.Yasar Arafath
For Respondents : Mr.K.Sanjai Gandhi
No.1 Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC No.355 of 2022 on the file of the District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District .

2. The case against the petitioners is that the Village Administrative Officer of Peikulam Group, Sikkal, Kadaladi Taluk, Ramanathapuram District in obedience to the order passed by this Court dated 21.04.2021 in W.P(MD) No.196819 of 2018 he along with other officials had gone to the survey No.289/7 situated in Mathina Nagar to remove the encroachment, at that time the accused persons obstructed the revenue officials in executing the order and removing the encroachment, hence the complaint has been lodged. After investigation charge sheet has been filed.

3. The contention of the petitioners is that one Laila Banu had filed a writ petition before this Court seeking direction to direct the Tahsildhar



to remove the encroachment made by the respondent in public pathway in Survey No.289/7, Mathina Nagar, Peiykulam, Sikkal Post, Kadaladi Taluk, Ramanathapuram District. The Division Bench of this Court finding that notice was ordered to the respondent in the year 2018 and till 2021 no steps have been taken to serve notice, disposed of the writ petition by giving liberty to the petitioner/ Laila Banu to file fresh representation. Further the petitioners are residing in government natham poramboke land and not in the pathway which was not considered and it was resisted. Thereafter complaint has been lodged.

4. The learned Additional Public Prosecutor submitted that in this the defacto complainant is the Village Administrative Officer who after getting orders from the superiors and following the orders passed by this Court he along with other went to remove the encroachment and obstructions in the common pathway, at that time the petitioners had shown force and resistance hence the Village Administrative Officer lodged complaint and on his complaint a case has been registered, witnesses have been examined and listing 13 witnesses charge sheet filed



5. It is seen that in this case in the complaint there is nothing to show that the prior to proceeding against the petitioners whether any prohibitory orders have issued by the officials which was communicated to the petitioners and thereafter too they had violated the prohibitory orders. No such materials are available with regard to Section 341 of IPC and there is nothing to show in the statement of witnesses to show that they were restrained from their normal path. Further there is no force or coercion or assault exerted by the petitioners against the public servant. In such circumstances further proceeding against the petitioners is questionable one.

6. Further, 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 Crl.O.P(MD) No.7922 of 2019 dated 30.08.2019.**



Crl.O.P.(MD)No.20764 of 2024

7. In the result, the Criminal Original Petition stands allowed and the proceedings in STC No.355 of 2022 on the file of the District Munsif Cum Judicial Magistrate, Kadaladi, Ramanathapuram District is hereby quashed not only against the petitioners but against all the other accused, who are also similarly placed. Consequently, connected miscellaneous petitions are closed.

28.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
aav

To

1. The District Munsif Cum Judicial Magistrate, Kadaladi,
Ramanathapuram District
2. The Inspector of Police
Sikkal Police Station
Ramanathapuram District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.20764 of 2024

M.NIRMAL KUMAR,J.

aav

Crl.O.P.(MD)No.20764 of 2024

28.11.2024