



CrI.O.P.(MD) No.21388 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 06.12.2024

CORAM:

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

CrI.O.P.(MD) No.21388 of 2024

and

CrI.M.P.(MD)No.13267 of 2024

- 1.Mohamed Aashik
- 2.Rajamohamed
- 3.Mohamed Yasin
- 4.Abdul Rasak
- 5.Syed Ibrahim

...Petitioners/A1 to A3, A5 & A6

Vs.

- 1.State Represented by
The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
Crime No.44 of 2024

... Respondent/Complainant

- 2.Muthumani
Sub-Inspector of Police,
Mimisal Police Station,
Pudukkottai District.

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 528 of BNSS, to call for the records pursuant to the proceedings in the impugned FIR in Crime No. 44 of 2024 dated 24.04.2024 on the file of the 1st respondent and quash the same as against these petitioners as illegal.

For Petitioners : Mr.M.Iniyavan
For R1 : Mr.K.Sanjai Gandhi
Government Advocate (CrI. side)



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ORDER

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The petitioners, who are the Accused Nos.1 to 3, 5 and 6 in Crime No.44 of 2024 for the offences under Sections 143, 341 and 283 of IPC, have filed this quash petition.

2.The case projected as against the petitioners is that on 22.04.2024, one Naina Mohamed S/o Gulam Rasool was found murdered in a suspicious manner. But, the respondent police had registered a case in Crime No.43 of 2024 for the offence under Section 174(3)(IV) of Cr.P.C and they also attempted to cover up the murder case. Hence, the petitioners and others had assembled before the respondent police and questioned them about the same, which has been projected against the petitioners as if they had indulged in road-roko and also disturbed the public. Hence, FIR in Crime No.44 of 2024 has been registered against them.

3.The contention of the petitioners is that it is normal that if a sudden death in a village had taken place and that too in a suspicious manner, the entire village joined together to share the grief and also questioned the respondent police with regard to conducting the investigation in this case. The petitioners had only raised their objection, assembled opposite the police station. In this



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case, there were no prohibitory orders on that day and if any prohibitory orders were in force, the same ought to have been published. In this case, no publication has been done. Hence, charge of the petitioners under Section 143 of IPC is not made out. Likewise, there has been no complaint from any public or anyone to show that they had been restrained from the directions, which intention to proceed and there was any disturbance of traffic. As regards the offence under Section 283 of IPC, there is nothing to show that there was any obstruction or injury to any person in a public way. In such circumstances, the respondent police got agitated over the petitioners questioning the authority of the police, the manner in which the investigation is being conducted and the fact that it had registered a false case against him. By going through the averments made in the complaint, there is no offence made out. Hence, he prayed for allowing this petition.

4.The learned Government Advocate (Crl. side) submits that the petitioners along with ten persons of the village had joined together and assembled opposite the police station and raised their objections about the manner in which the investigation had not been conducted in a proper manner. Further, the petitioners had unnecessarily created a scene, obstructed the police from carrying out the investigation and they were spreading rumors as if the



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police will not taking proper action and also obstructed the movement of the general public. He further submits that the respondent police had conducted a investigation properly and also registered the FIR in Crime No.43 of 2024 for the offence under Sections 174(3)(IV) of Cr.P.C. and thereafter, the inquest was conducted and the body was sent to the post-mortem and later, handed over to the relatives. He further submits that after completion of investigation, the offences has been altered to Sections 147, 148, 341 and 302 of IPC and the charge sheet has already been filed before the learned Judicial Magistrate, Manalmelkudi and the same was taken cognizance in P.R.C.No.32 of 2024.

5.Considering the submissions and perused the materials, it is seen that the petitioners have only raised objections for registering the offence on the death of the co-villager, Naina Mohamed and the respondent police found injuries on the body of the deceased, had registered a case in Crime No.44 of 2024 for the offence under Section 174(3)(IV) of Cr.P.C, which was agitated the fellow villagers. It is also to be seen that the agitation of the petitioners is not without substance. Now the learned Government Advocate (Crl.side) admits that the offence has been altered and the charge sheet has already been filed before the trial Court.



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6. In view of the above, the petitioners' objections and protest on 24.04.2024 are not without any reason. Further, from the draft charge sheet produced, it is seen that there are only three witnesses and all three witnesses are only the police personnel and no public have been examined and the case itself is that the petitioners and others joined together in the public place and obstructed the movement of the public and free flow of vehicle. Further, there is nothing to show that on the date of occurrence on 24.04.2024, there were any prohibitory orders. In view of the same, taking into account the complaint as a whole, assume that no offence is made out. Hence, this Court is inclined to quash the proceedings.

7. Accordingly, this Criminal Original Petition is allowed and the FIR in Crime No.44 of 2024 is set aside not only against the petitioners but also against the other accused persons, who are similarly placed. Consequently, connected miscellaneous petition is closed.

06.12.2024

Internet: Yes/No

Index: Yes/No

Speaking/Non speaking order

sjj



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M. NIRMAL KUMAR.J.,

sj1

To

- 1.The Inspector of Police,
Mimisal Police Station,
Pudukkottai District.
- 2.The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai

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