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Crl.O.P.(MD)Nos.21633 and 21634 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)Nos.21633 and 21634 of 2024

and

Crl.M.P(MD) Nos.13401, 13402, 13405 and 13406 of 2024

1.Chezhiyan
2.Manimaran
3.Visuvasam
4.Saravanan
5.Sethukumar
6.Vellaiyan

...Petitioners in Crl.O.P.(MD)No.
21633/2024

1.Jeeva
2.Kaliyappan
3.Malaidoss
4.Latha
5.Tamil Sevlan
6.Prathiv

...Petitioners in Crl.O.P.(MD)No.
21634/2024

Vs

State of Tamil Nadu rep by
The Inspector of Police,
Cantonment Police Station,
Trichy City,
(Crime Nos.853 and 146 of 2018)

... Respondents in both petitions

COMMON PRAYER : Criminal Original Petitions filed under Section 528 of BNSS, to call for the records in C.C.No.722 of 2018 and C.C.No. 427 of 2018 pending before the learned Judicial Magistrate-II, Trichirapalli in connection with Cr.No.853 of 2018 and Crime No.146 of



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2018 dated 22.05.2018 and 25.01.2018 for the offences under Sections 143, 290, 341 r/w 41 of the Tamil Nadu City Police Act, 1888 and 143 and 285 r/w Sections 74 and 41(6)(a) of the Tamil Nadu City Police Act, 1888, respectively on the file of the respondent and quash the same as illegal.

In both petitions:

For Petitioners : Mr.S.Vanchinathan

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

COMMON ORDER

These Criminal Original Petitions have been filed to quash the proceedings in C.C.Nos.722 and 427 of 2018 pending on the file of the learned Judicial Magistrate No.II, Trichirappalli.

2.The case projected against the petitioners in Crl.O.P.(MD)No. 21633 of 2024 is that the petitioners on 22.05.2018, unlawfully assembled together near Periyar Statue and started to condemn and criticize the Thoothukudi Police firing against the general public, thereby they have restrained the public and obstructed free flow of traffic which caused disturbance to public, hence a case has been registered in Crime No.853 of 2018 for the offences under Sections 143, 290, 341 of IPC r/w Section 41 of the Tamil Nadu City Police Act, 1888 against the accused persons.



3.The case projected against the petitioners in Crl.O.P.(MD)No. 21634 of 2024 is that the petitioners had gathered near the Periyar Statue at Trichy and started to condemn and criticize the action of Kanchi Vijayendrar, who does not stand for the Tamil Thai Valthu in the meeting. Hence, a case has been registered in Crime No.146 of 2018 for the offence under Sections 143 and 285 r/w Sections 74 and 41(6)(a) of the Tamil Nadu City Police Act, 1888.

4. The contention of the petitioners in both the cases is that the list of witnesses in the final report are all official witnesses and no public witnesses have been examined in this case. He would further submit that no specific overt act has been attributed as against any of the petitioners herein in the final report and complaint has been received from any public that the petitioners obstructed the free flow of traffic and further no untoward incident happened. The learned counsel appearing for the petitioners in both petitions 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**



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Station Virudhunagar District and other in batch of cases in
Crl.O.P(MD) No.7922 of 2019 dated 30.08.2019.

5. The learned Additional Public Prosecutor would submit that the petitioners and others had held protest without getting any permission from the concerned officials. He would fairly submit that this Court in similar grounds quashed the proceedings based on the citations referred by the learned counsel appearing for the petitioners.

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

7. Perused the materials on record

8. In a democratic society, an assembly cannot be framed as an unlawful assembly, where there is no material to show that there were restrictions for such assembly by way of a Police Standing Order. 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***



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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.

9. In the result, the Criminal Original Petitions stand allowed and the proceedings in C.C.Nos.722 and 427 of 2018, respectively on the file of the learned Judicial Magistrate II, Trichirapalli are quashed not only against the petitioners but against all the other accused, who are also similarly placed. Consequently, connected miscellaneous petitions are closed.

10.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Judicial Magistrate-II,
Trichirapalli.
2. The Inspector of Police,
Cantonment Police Station,
Trichy City,
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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