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Crl.O.P.(MD)No.22000 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22000 of 2024

1.Sugumaran

2.Maheswaran

.. Petitioners /
Accused 2 & 3

Vs.

1.The State of Tamil Nadu represented by
The Inspector of Police,
Palaiyanur Police Station,
Sivagangai District.

.. 1st Respondent/
Complainant

2.Kasivisvanathan

.. 2nd Respondent/
Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 528 of BNSS,
to call for the entire records in Crime No.57 of 2021 pending on the file of
the first respondent Police and quash the same as against this petitioners.

For Petitioners : Mr.G.Bhagavath Singh

For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for R.1



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ORDER

This Criminal Original Petition has been filed seeking to quash the case in Crime No.57 of 2021, pending on the file of the first respondent Police, as against this petitioners.

2. The case against the petitioners is that on 28.05.2021, the respondent Police received a complaint from the Village Administrative Officer that when he and his Assistant were going around the village at about 7.40 p.m, the petitioners along with 40 other villagers were holding a condolence and remembrance for three persons who were murdered in the year 2018, without obtaining prior permission and without following COVID protocol, which restricts public assembly due to spread of COVID pandemic and violated since there was a threat of spread of pandemic lodged complaint.

3. The contention of the petitioners is that the villagers who are mostly relatives to the victims who were brutally murdered three years before. Following the COVID protocol such as wearing mask, keeping arms distance, they were paying homage to the departed souls. The



restriction for assembling has not been propagated to the public in the manner known to law. Further the petitioners had not caused any public disturbance.

4. The assembly of the petitioners to pay homage is natural conduct and paying homage cannot be objected. By paying homage by the petitioners and others there is nothing to show that any of the persons who have assembled got affected with Corona and further after the homage there was spike in spread of COVID pandemic.

5. For the purpose of statistics, the case has been registered and the respondent Police after registration of the case on 28.05.2021 so far not taken any steps to file the final report. Further on the ground of limitation, the respondent Police cannot file the final report, in this case any more. He further submitted that the first petitioner Sugumaran was not aware of the registration of the case and the Police neither called for any enquiry nor the Village Administrative Officer informed about lodging of the complaint. The first petitioner had applied for the post of Grade - II Police Constable in the Tamil Nadu Police and at that time only he came to know that the case in Crime No.57 of 2021 had been registered against him for



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the offences punishable under Sections 143 and 269 of IPC. Hence the first petitioner's selection is kept on hold and only after intimation by the Police officials, the first petitioner came to know about the above case. He filed a copy application before the Judicial Magistrate Court, seeking copy of the FIR, Charge sheet and 161 statements and the same was returned on 17.10.2024 stating that FIR, charge sheet and statements have not been filed before the Court. Hence, he has filed this petition to quash the FIR in Crime No.57 of 2021 by the Police before the Judicial Magistrate Court. The petitioner further submits that the petitioner hails from an ordinary family and he is willing to join the Police force and serve the State and the employment will provide regular source of income and will provide support to the petitioner as well to his family. Denial of employment citing the above case would cause great prejudice and his chance of getting employment in future will also get affected. Hence, he prayed for quashing of FIR and consequently the final report if any filed.

6. The learned Additional Public Prosecutor submitted that the Village Administrative Officer has lodged the complaint on 28.05.2021 against three persons including the petitioners and 40 others. Petitioners and 40 others were found assembled together and paid homage to three



persons of the village who died 3 years ago, during the time of Corona violating the restrictions imposed. Hence, the case has been registered.

7. Considering the submission and perusal of materials, it seen that the petitioners along with other villagers are said to have assembled to pay homage to their relatives of the village who had been murdered 3 years before. The petitioners and others were only paying respect and there is nothing to show that they were not wearing any mask or keeping social distance. Further promulgation to restriction has not been made in the manner known to law. This Court in the case of ***Jeevanandhan and others Vs. State rep. by Inspector of Police, Velayuthampalayam Police Station, Karur District and another*** had given certain guidelines.

8. It is further seen that it is not tested and proved that the persons who paid homage were affected by Corona and thereby there was a case of spread pandemic. After the incident on 28.05.2021, there is nothing on record to show that there was spike in spread of pandemic. No public has also lodged any complaint about the said incident.



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9. In view of the same, this Court finds that the contention of the case against the petitioners and others is not justifiable and hence, quash the proceedings against the petitioners and others in Crime No.57 of 2021 and any consequential proceedings. Since the petitioners have been discharged from the case, the same cannot be quoted against the petitioners in their employment for the present and future. In view of the same, the objections raised by the Police in C.No.A3/E-5446166/188/2023 will not be sustainable. Hence, the respondent Police is directed to remove the case in Crime No.57 of 2021 from CCTNS records.

10. With the above directions, the Criminal Original Petition stands allowed.

13.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
MGA

Note: Issue order copy on 18.12.2024.

To

1. The Inspector of Police,
Palaiyanur Police Station,
Sivagangai District.



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

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M.NIRMAL KUMAR,J.

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