



Crl.O.P.(MD)No.22347 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22347 of 2024

and

Crl.M.P(MD) Nos.13922 and 13925 of 2024

1. Abdul Jappar
2. Nizar Mohamed
3. Mohamed Salim
(wrongly mentioned in the charge sheet as Mohamed Shalin)
4. Shahul Hameed
5. Sathik Ali
6. Sharief
(wrongly mentioned in the charge sheet as Herif(Harif Payital)
7. Sulfikar Ali
(wrongly mentioned in the charge sheet as Sulbikkar Ali)

.. Petitioners

Vs

The Inspector of Police
Colachel Police Station
Kanyakumari
Tamil Nadu- 629 251

.. Respondent



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PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records in STC No.71 of 2023 before the learned Judicial Magistrate, Eraniel, Kanyakumari and quash the same as illegal as against the Petitioners /Accused Nos.1,2,3,5 to 8

For Petitioners : Mr.A.Raja Mohamed
For Respondent : Mr.K.Sanjai Gandhi
Government Advocate(Crl.Side)

ORDER

This Criminal Original Petition has been filed to quash the proceedings in STC No.71 of 2023 before the learned Judicial Magistrate, Eraniel, Kanyakumari as against the Petitioners /Accused Nos.1,2,3,5 to 8

2. The case projected against the petitioners is that on when the respondent/Defacto-Complainant is on duty on 06.06.2022 with other police at the police station, at about 18.00 hours, petitioners along with some others without any intimation or prior permission from the concerned authority assembled at the police station and raised slogans against the police for arresting Shahul Hameed, S/o. Abdul Kadar and Riyaz Ahamed, S/o. Shahul Hameed, hence a case was registered.



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3. The contention of the petitioners is that the petitioners have been primarily charged for forming unlawful assembly causing wrongful restraint and nuisance to the general public. In this case all the witnesses are official witnesses and none of the public has been examined. Further the statements of formal witnesses are replica of each other which shows that they just signed on the pre determined statement of the respondents which clearly proves that the witnesses are fabricated. The learned counsel appearing for the petitioners 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 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 would submit that the petitioners and along with some others without any intimation or prior permission from the concerned authority assembled at the police station and raised slogans against the police for arresting Shahul Hameed, S/o. Abdul Kadar and Riyaz Ahamed, S/o. Shahul Hameed. . Hence the case



has been registered and now charge sheet has been filed. 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.

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

6. Perused the materials on record

7. 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.***

8. In the result the Criminal Original Petition stands allowed and the proceedings in STC No.71 of 2023 before the learned Judicial Magistrate,



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Eraniel, Kanyakumari 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.

18.12.2024

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

1. The Judicial Magistrate, Eraniel, Kanyakumari District
2. The Inspector of Police
Colachel Police Station
Kanyakumari
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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