

Crl.O.P.(MD) No.4153 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED :25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

CRL. OP(MD). No.4153 of 2024

Muthupandi

... Petitioner

Vs.

1. The Sub Inspector of Police
Keelarajakularaman Police Station
Virudhunagar District

2. Muthukumar
Sub Inspector of Police
Keelarajakularaman Police Station
Virudhunagar District

... Respondents

PRAYER: Criminal Original Petition filed under Section 528 of BNSS to call for the records in the case in STC No. 4818 of 2019 on the file of the Judicial Magistrate Court, Rajapalayam, Virudhunagar District and quash the same as illegal

For Petitioner : Mr.M.Jothi Basu

For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl. Side)



Crl.O.P.(MD) No.4153 of 2024

ORDER

WEB COPY This petition has filed to quash the proceedings in STC No. 4818 of 2019 on the file of the Judicial Magistrate Court, Rajapalayam, Virudhunagar District.

2. The case of the prosecution is that the petitioner along with others without any permission formed unlawful assembly and made protest against the Central Government for the hike in diesel and petrol price on 10.09.2018 at about 10.45 to 10.50 am., and blocked the road, thereby committed the offence under Sections 341 and 143 of IPC.

3. The learned counsel appearing for the petitioner would submit that based on the complaint given by the second respondent the first respondent registered a case in Crime No. 295 of 2018 for the offences under Sections 143 and 341 of IPC. The petitioner is the political party of CPIM and on 10.09.2018 at about 10.45 hrs they conducted demonstration for various demands including hike in petrol and diesel price in front of Chathrapatti Bus stop, Rajapalayam, Alangulam Main Road. Infact all the witnesses are police witnesses and there is no unlawful assembly and therefore the accused persons cannot be prosecuted under Section 143 of IPC. There is no evidence that the petitioner



Crl.O.P.(MD) No.4153 of 2024

and others have wrongfully restrained some body to attract the offence under

Section 341 of IPC. The first respondent without conducting proper investigation filed final report before the learned Judicial Magistrate, Rajapalayam and the learned Magistrate also without any prima facie materials have taken cognizance and the same is pending in STC No. 4814 of 2019 and therefore the pending proceedings is liable to be quashed.

4. The learned counsel appearing for the first respondent would submit that this petitioner along with others have formed unlawful assembly by restraining others from proceeding in the Rajapalayam, Alangulam Main Road. Therefore the second respondent lodged a complaint against the petitioner and others and the first respondent registered a case and thereafter the first respondent conducted investigation and filed final report and the trial Court has also taken cognizance and there are prima facie materials available as against this petitioner to proceed with the case, therefore he has to face the trial, hence the petition is liable to be dismissed.

5. Heard both sides and perused the materials available on record.



WEB COPY

6. In this case the first respondent has registered a case against the petitioner and others for the offences under Section 143 and 341 of IPC alleging that petitioner along with others formed unlawful assembly restrained the public from proceeding in the road by conducting demonstration of protest against the central government for hike in petrol and diesel price. Therefore the second respondent lodged complaint and the first respondent registered a case against the petitioner and other under Section 143 and 341 of IPC.

7. On careful perusal of the entire records, there are no materials to show that the petitioner and other accused formed unlawful assembly. They only conducted demonstration and no any unlawful assembly as defined under Section 141 of IPC. There are no materials to constitute the offence under Section 143 of IPC, as per the First Information Report and final report. Merely because they assembled together and conducted dharna it will not amount to unlawful assembly to attract the provision under Section 143 of IPC.

8. So far as offence under Section 341 of IPC is concerned, there are no materials that this petitioner along with other accused unlawfully restrained anybody and there is no any complaint given by any one of the public and no



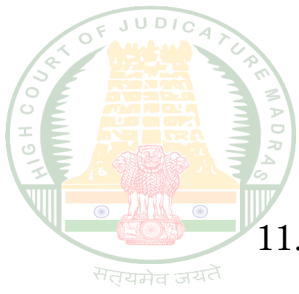
other materials to show that the accused person obstructed anybody in proceeding in the public road, therefore the pending proceedings are liable to be quashed.

9. At this juncture, the learned counsel appearing for the petitioner relied on the following judgments:

a) Jeevanantham and others .vs. The Inspector of Police, Velayuthapuram Police Station, Karur District and another reported in 2018-22 L.W.(Crl.)606

b) K.Sathaiya and others .vs. The Inspector of Police, Arimalam Police Station, Pudukottai District in Crl.O.P(MD) No.75 of 2025.

10. On careful perusal of the above said judgments it is clear that when the assembly of persons were expressing dissatisfaction on the governance and claiming for minimum rights that are guaranteed to an ordinary citizen and if such an assembly of persons are to be trifled by registering an FIR under [Section 143](#) of IPC and now equivalent to Section 189(2) of BNS and filing a Final Report for the very same offence, no democratic dissent can ever be shown by the citizens and such prohibition will amount to violation of fundamental rights guaranteed under the Constitution.



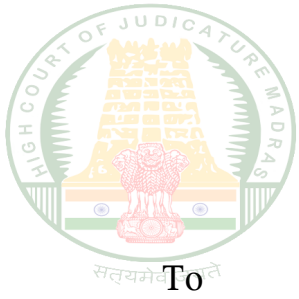
Crl.O.P.(MD) No.4153 of 2024

11. In the case on hand also the petitioners agitated for hike of petrol and diesel price in a peaceful manner and no any complaint lodged by any public and no any public movement was curtailed. To attract the offence under Section 143 and 341 of IPC there is no any material that this petitioner along with other accused formed unlawful assembly with a common intention to resist the execution of any law or of any legal progress. Further the said dharna did not cause any public nuisance to anybody. More over there is no unlawful assembly to do the illegal act with common intention. In view of the above discussions, this Court is of the opinion that the pending First Information Report is liable to be quashed.

12. Accordingly the Criminal Original Petition stands allowed and the proceedings in STC No. 4818 of 2019 on the file of the Judicial Magistrate Court, Rajapalayam, Virudhunagar District is hereby quashed.

25.03.2025

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



Crl.O.P.(MD) No.4153 of 2024

To
WEB COPY

1. The Judicial Magistrate Court, Rajapalayam, Virudhunagar District.
2. The Sub Inspector of Police
Keelarajakularaman Police Station
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD) No.4153 of 2024

P.DHANABAL, J.

aav

Crl.O.P(MD)No.4153 of 2024

25.03.2025