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Crl.O.P.(MD)No.17478 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.17478 of 2024
and Crl.M.P(MD).No.10876 of 2024

1.Sivakumar
2.Murugan

: Petitioners

Vs.

The Inspector of Police,
Kottampatti Police Station,
Madurai District.
Crime No.230 of 2024

: Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records and quash the FIR registered in Crime No.230 of 2024 dated 21.07.2024 as against the petitioner herein on the file of the respondent police.

For Petitioners : Mr.V.S.Rishikesh

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

The petitioners, who are A3 and A4 in Crime No.230 of 2024 for the offences under Sections 189(2) and 126(2) of BNS Act, had filed this petition.



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2. The case against the petitioners is that the petitioners along with other accused assembled in front of Kottampatti Bus-stand and raising slogan against the HR & CE Department without any prior permission, which caused disturbance to the public. Thereafter, the petitioners and other accused persons were arrested and case was registered against them in Crime NO.230 of 2024 for the offence under Sections 189(2) and 126(2) of BNS Act.

3. The contention of the petitioners is that showing protest in democratic society is a fundamental right and there is no public restrained. The learned learned counsel appearing for the petitioners in support of his contention had relied upon the judgment 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. Heard the learned Additional Public Prosecutor appearing for the respondent police.



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

6. Considering the facts and circumstances of the case, this Court is of the view that showing protest by holding tharna is permissible, which cannot be construed and projected as illegal act. In this case, case projected is that the movement of the public was restrained to proceed further in the direction as they intended and movement of vehicle has been affected. No public had lodged complaint stating about the incident, in such circumstances, claiming that the petitioner holding tharna and caused public nuisance would not be proper. Accordingly, the proceedings in Crime No.230 of 2024 on the file of the respondent police is hereby quashed against the petitioner and all others in the case who are similarly placed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

09.01.2025

(2/2)

NCC : Yes/No

Index : Yes / No

Rmk

Note : Issue order copy on 31.01.2025



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



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M.NIRMAL KUMAR,J.

Rmk

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