



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) No.17976 of 2019

WEB COPY

1.Jalaudeen @ Shaik Jalaludeen

2.Jallani @ Mohamed Jalani

3.Riyas Ahmed

4.Rahumathullah

5.Arafath @ Liyasin Arafath

6.Mohamed Ikbai

7.Rabikhan

8.Mohaiden Pitchai

9.Fayas @ Fayas Ahamed

...Petitioners/Accused Nos.3, 9,
10, 12 to 16, 20 & 22

-Vs-

1.State rep by

The Inspector of Police,
Sethubavasathiram Police Station,
Thanjavur District.
(Crime No.105 of 2014)

... 1st Respondent/Complainant

2.Mathialagan

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the case in Crime No.105 of 2014 on the file of the first respondent police and quash the same.

For Petitioners : Mr.B.Arun

For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.Side)



ORDER

This petition has been filed to quash the case in Crime No.105 of 2014 on the file of the first respondent police.

2.The case of the prosecution is that on 18.06.2014, the petitioners were conduct a strike in ECR Road without getting prior permission. Due to which, there was a public and traffic nuisance. Hence, the respondent police registered a case in Crime No.105 of 2014 for the offences under Sections 143, 153 (A) and 188 of IPC, as against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offences as alleged by the prosecution and they have been falsely implicated in this case. Further, he submitted that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioners, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioners unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Government Advocate (Crl.Side) would submit that there are specific allegations as against the petitioners to proceed with the trial. Further, he would submit that the petitioners are habitual offender by committing this kind of crimes. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl.Side) appearing for the first respondent/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioners are concerned, the first respondent levelled the charge under Sections 143, 341 and 188 of IPC, as against the petitioners. It is seen from the charge that on 18.06.2014, the petitioners were conduct a strike in ECR Road without getting prior permission. Due to which, there was a public and traffic nuisance. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioner. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated by public servant – Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause



obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

7.Considering the above, this Court finds that for the simple charge, the petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners.

8.In view of the above discussions, this criminal original petition is allowed and the case in Crime No.105 of 2014 on the file of the first respondent police, is quashed as against the petitioners herein.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

dss

To

1.The Inspector of Police,
Sethubavasathiram Police Station,
Thanjavur District.

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

+1 CC to M/s.B. ARUN, Advocate (SR-102811[F] dated 29/11/2019)

Cr1.O.P. (MD)No.17976 of 2019
29.11.2019

kmv (CO)
TR(20.12.2019) 3P 4C