



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 25.08.2022

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THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Crl.O.P.No.19152 of 2022 &

Crl.M.P.Nos.12667 & 12669 of 2022

1. Jegan @ Ellamaran
2. Gokul Anand
3. Manoj
4. Kalaivannan
5. Dhanajayan

... Petitioners

Vs.

1. State represented. by : The Inspector of Police,
F-3, Nungambakkam Police Station,
Nungambakkam, Chennai – 600 006.
(Crime No.1432 of 2016)

2. R.Boopalan,
Sub Inspector of Police,
F-3, Nungambakkam Police Station,
Nungambakkam, Chennai – 600 006.

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the case in C.C.No.210 of 2019 on the file of the XIV Metropolitan Magistrate, Egmore, Chennai and quash the same.



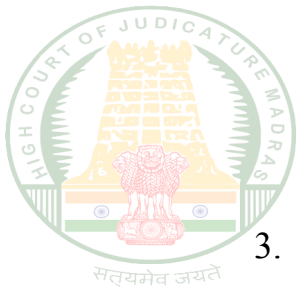
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For Petitioner : Mr.I.Periaswamy
For Respondents : Mr.E.Raj Thilak
Additional Public Prosecutor - R1

ORDER

This Criminal Original petition has been filed to call for the records and quash the Final Report as against the petitioners and other accused in C.C.No.210 of 2019 pending on the file of the XIV Metropolitan Magistrate, Egmore, Chennai Police for the offences under Sections 143, 188 of IPC @ 143, 149, 353 IPC read with 7 [1] a of CL Act.

2. The allegation in the FIR indicates that on 20.11.2016 at about 5.30 p.m. the members of May-17 Organization along with its Leader and 100 of participants indulged in the protest/agitation near Valluvar Kottam, Nungambakkam and raised various slogans against Prime Minister for announcing Demonetization as void. and thereby, the present First Information Report has been registered.



3. The learned counsel for the petitioners submitted that the prosecution has been launched with false allegations and even when the entire prosecution case taken as a face value, the same would not constitute any offence and continuing the prosecution is nothing but abuse of process of law. Therefore, submitted that the same may be quashed.

4. The Learned Additional Public Prosecutor submitted that the accused unlawfully assembled and caused disturbance to the public, thereby, they have been prosecuted.

5. It is to be noted that while exercising the power under Section 482 of Cr.P.C, the Court should be slow, at the same time, if the Court finds that from the entire materials collected by the prosecution taken as a whole, would not constitute any offence, in such situation, directing the parties to undergo ordeal of trial will be a futile exercise and it will infringe the right of the persons and in this regard, the Apex Court in **State of Haryana and others Vs. Bhajan Lal and Others** reported in **1992 Supp (1) Supreme Court Cases 335**, has been held as follows :



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(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

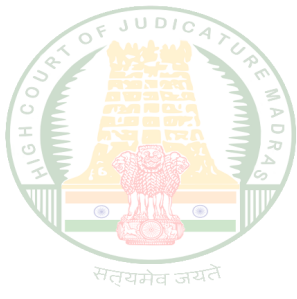
(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party;

(g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on



the accused and with a view to spite him due to private and personal grudge.'

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6. Even as per the FIR, it is not the case of the defacto complainant that the petitioners along with other accused have unlawfully assembled and used force or violence and hence, offences under sections 143 of IPC is not attracted. Further it is not the case of the prosecution that the accused have used criminal force to deter public servant from discharging his official duty to attract the offence under section 353 of IPC and section 7 [1] [a] of Criminal Law Amendment Act.

7. Considering the above, this Court is of the view that mere launching of FIR by the prosecution itself is not sufficient to reach to the conclusion that offences are made out and the materials collected by the prosecution do not support for proving the case and continuing the prosecution on shaky or without any materials is clear abuse of process of law.

9. Accordingly, this Criminal Original Petition is allowed and proceedings against the petitioners in C.C.No.210 of 2019 on the file of the XIV Metropolitan



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Magistrate, Egmore, Chennai is quashed. Consequently, connected miscellaneous petitions are closed.

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Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order

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To

1. The XIV Metropolitan Magistrate,
Egmore, Chennai
2. The Inspector of Police,
F-3, Nungambakkam Police Station,
Nungambakkam, Chennai – 600 006.
3. The Public Prosecutor
High Court, Madras.



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VERDICTUM.IN



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N.SATHISH KUMAR, J.

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