



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2017

CORAM

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THE HON'BLE MR.JUSTICE S.S.SUNDAR

CrI.O.P.(MD)Nos.1307 to 1309 of 2017
and

CRL.M.P(MD)Nos.7169 to 7171 of 2017 and 1106 to 1108 of 2017

CrI.O.P(MD)No.1307 of 2017

1.A.Abdul Mazeed

2.M.Kathar Masthan

3.A.Ismail

4.K.Sait

5.A.Mohammed Jailani

6.A.Madhar Mydeen

7.M.Thameem Ansari

8.M.Jabar Sathiq

9.M.Ismail

10.J.Rabiq @ Mohammed Rabiq ...Petitioners/Accused

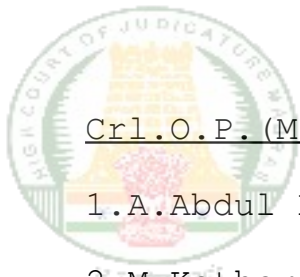
-vs-

1.The Inspector of Police,
Chinnamanoor Police Station,
Madurai District.
(Crime No.646 of 2015)

...Respondent/Complainant

2.A.Mohammed Kavan

...Respondent/De-facto
complainant



CrI.O.P. (MD) Nos.1308 and 1309 of 2017

1.A.Abdul Mazeed

2.M.Kathar Masthan

3.A.Ismail

4.K.Sait

5.M.Ahammed

6.M.Mohammed Divan Mohaideen

7.M.Syed Sulthan

8.K.Sheik Mohammed

9.A.Mohammed Jailani

10.J.Rabiq @ Mohammed Rabiq

11.M.Thameem Ansari

12.M.Jabar Sathiq

13.A.Madhar Mydeen

14.M.Ismail

15.A.Mohammed Jailani

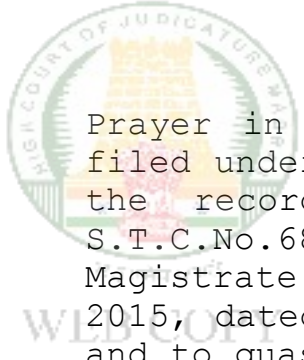
16.M.Mohammed Kabeer ... Petitioners/Accused

-vs-

1.The Inspector of Police,
Chinnamanoor Police Station,
Madurai District.
(Crime No.680 of 2015) ... Respondent/Complainant

2.A.Mohammed Kavan ... Respondent/De-facto complainant

Prayer in CRL.O.P(MD)No.1307 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C., praying this Court to call for the records pertaining to the impugned Protest Petition in C.C.No.313 of 2016, pending before the learned Judicial Magistrate Court, Uthamapalayam, Theni District in Crime No.646 of 2015, on the file of the first respondent-Police and to quash the same as illegal.



Prayer in CRL.O.P(MD)No.1308 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C., praying this Court to call for the records pertaining to the impugned Protest Petition in S.T.C.No.6858 of 2016, pending before the learned Judicial Magistrate Court, Uthamapalayam, Theni District in Crime No.680 of 2015, dated 10.09.2015, on the file of the first respondent-Police and to quash the same as illegal.

Prayer in CRL.O.P(MD)No.1309 of 2017: Criminal Original Petition filed under Section 482 of Cr.P.C., praying this Court to call for the records pertaining to the impugned Protest Petition in S.T.C.No.6859 of 2016, pending before the learned Judicial Magistrate Court, Uthamapalayam, Theni District in Crime No.672 of 2014, dated 31.12.2014, on the file of the first respondent Police and to quash the same as illegal.

For Petitioner : M/s.T.Lajapathi Roy
in all Crl.O.Ps'

For Respondent-1 : Mr.K.Anbarasan
in all Crl.O.Ps' Government Advocate (Crl.Side)

For Respondent-2 : M/s.Mohamed Sherbudeen
in all Crl.O.Ps'

COMMON ORDER

All these Petitions are filed to quash the Protest Petitions in C.C.No.313/2016, S.T.C.6858 of 2016 and S.T.C.No.6859 of 2016 pending on the file of the learned Judicial Magistrate Uthamapalayam, Theni District

2.Heard the learned counsel for the Petitioners,the learned Government Advocate(Crl.side) appearing for the first respondent-Police and the learned counsel appearing for the second respondent and perused the materials placed before this Court.

3.The case of the Petitioners is that the complaints were earlier closed by the first respondent-Police as 'mistake of fact' and the application filed by the second respondent/de-facto complainant namely, the protest petition before the concerned court for fresh investigation, is not admissible.

4.The learned counsel for the Petitioners also relied upon a judgement of the Honourable Supreme Court in the case of *Vinay Thiyaagi Irshad Ali @ Deepak and others* reported in (2013) 5 SCC 762, wherein, it has been held as follows:

<https://hcservices.ecourts.gov.in/hcservices/> 4.No investigating agency is empowered to conduct a 'fresh', 'denovo' or 're-investigation' in relation to the offence for which it has already



filed a report in terms of Section 173(2) of the Code. It is only upon the orders of the higher courts empowered to pass such orders that aforesaid investigation can be conducted, in which event the higher courts will have to pass a specific order with regard to the fate of the investigation already conducted and the report so filed before the court of the learned Magistrate.''

5.The learned counsel for the Respondents submitted that cases were taken on file in S.T.C.No.6858 of 2016, S.T.C.No.6859 of 2016 and C.C.No.313 of 2016. Hence these Petitions have become infructuous.

6.Having regard to the facts and circumstances, this Court is of the view that the petitioners cannot seek to quash the proceedings, in view of the fact that the Petitioners have filed private complaints and it was taken on file in S.T.C.No.6858 of 2016, S.T.C.No.6859 of 2016 and C.C.No.313 of 2016.

7.In such view of the matter, these Petitions have become infructuous. Hence, these Criminal Original Petitions are dismissed as infructuous. It is open to the Petitioners to raise their objections in the manner known to law. However, at the request of the learned counsel for the Petitioners, the personal appearance of the Petitioners is dispensed with before the Court below, unless and until their appearance is specifically required by the Court below. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-
Assistant Registrar(ADII)

/True Copy/

Sub-Assistant Registrar

To

- 1.The Inspector of Police,
Chinnamanoor Police Station, Madurai District.
 - 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +3 ccs to Mr.T.Lajapathi Roy, Advocate, SR.No.71824
+One cc to M/s.M.Mohamed Sharbudeen, Advocate, SR.No.71515
vsn
RL/7C/4P/SKN/RSK/SAR1/30/8/2017

CrI.O.P.(MD)Nos.1307 to 1309 of 2017
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