



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:14.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.O.P (MD) No.14978 of 2017

and

CrI.M.P. (MD) .Nos.9970 and 9971 of 2017

1. Kalankutti Muthan
2. Murugesan
3. Arumugam
4. Periya Karuppan
5. Rathinam
6. Kannan, S/o.Muthukaruppan
7. Muthuvel
8. Kannan, S/o.Muthu
9. Kannan, s/o.Muthuraman

... Petitioners/Accused 1 to 9

Vs.

The Inspector of Police,
Thirupuvanam Police Station,
Sivagangai District,
Crime No.6/2013.

... Respondent/Complainant

PRAYER: The Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records relating to the case in S.T.C.No.1667 of 2013 on the file of Additional District Munsif cum Judicial Magistrate, Manamadurai and to quash the same as illegal.

For Petitioners : Mr.K.Shanmugaraja

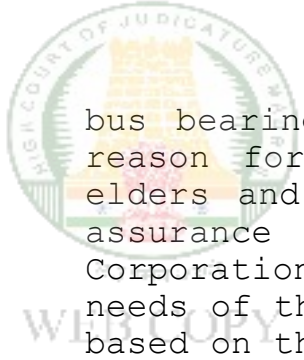
For Respondent : Mr.A.Ramar

Additional Public Prosecutor

O R D E R

This petition is filed for quashing the case in S.T.C.No.1667 of 2013 on the file of Additional District Munsif cum Judicial Magistrate, Manamadurai. Based on the complaint lodged by the Inspector of Police, Thirupuvanam Police Station, the respondent, the case was registered in Crime No.6 of 2013 for the alleged offences under Sections 143, 341 and 188 of I.P.C. After filing charge sheet, the case was taken on file in S.T.C.No.1667 of 2013 by the Additional District Munsif cum Judicial Magistrate, Manamadurai.

2. The case of the petitioners is that on 05.01.2013, some of the residents of the petitioners' village gathered and stopped the



bus bearing Registration No. TN 58 N 1387 and enquired about the reason for not plying the bus through their village to pick up elders and school going children. It is stated that after getting assurance from the Depot Manager that the State Transport Corporation bus will pass through their village to cater to the needs of the villagers, the people, who gathered dispersed. However, based on the complaint, charge sheet was also filed and the same was taken on file in S.T.C.No.1667 of 2013 before the Judicial Magistrate, Manamadurai.

3. The learned counsel for the petitioners raised the following grounds:

The incident had occurred only on 05.01.2013 and the case was registered after a long delay of 30 days. It is further stated that the facts stated in the First Information Report gives an indication that the complaint nothing but a put up case with false fiction and that the complaint does not contain truth. One of the main contention is that the Investigating Officer himself is the complainant and that the informant cannot take the role of investigating agency which is against public policy.

4. The learned counsel for the petitioners relied upon the judgment of this Court in the case of **Kalaiselvan vs. The State represented by the Inspector of Police, Erumaipatti Police Station, Namakkal District** reported in **2004(2) CTC 180**, wherein it has been held that the informant cannot be the investigating officer and that the First Information Report registered on the basis of the information given by the investigating officer was quashed holding that the investigation is illegal.

5. The learned counsel for the petitioner also relied upon the judgment of the Hon'ble Supreme Court in the case of **Megha Singh vs. State of Haryana** reported in **(1996) 11 SCC 709**. The Hon'ble Supreme Court also expressed similar view by reiterating that the investigation by the very police officer, who lodged the complaint is not conducive to fair and impartial investigation.

6. Considering the admitted facts that the case was registered on the basis of the information of the investigating officer and the filing of charge sheet by the same officer, who is the investigating agency is not proper. Hence, the Criminal Original Petition is allowed and the proceedings in S.T.C.No.1667 of 2013 on the file of Additional District Munsif cum Judicial Magistrate Court, Manamadurai is quashed as against the petitioners. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AS)



To

1. The Additional District Munsif cum
Judicial Magistrate,
Manamadurai.

2. The Inspector of Police,
Thirupuvanam Police Station,
Sivagangai District,
Crime No.6/2013.

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

+ 1 CC TO Mr.K.SHANMUGA RAJA, ADVOCATE IN SR No. 87215

AKV

TE/SKN-RSK/SAR-4: 24/11/2017 : 3P/5C

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