



\BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CrI.O.P.(MD)No.7348 of 2017 &
CrI.M.P.(MD).Nos.5009 and 5010 of 2017

1.M.Ganesan
2.Chinnu
3.Panchu
4.Balan
5.Raja
6.Kumar
7.Subbiah
8.Alagupandi
9.Sudhagar
10.Rajesh
11.Milagaipodi Ganesan
12.Balamurugan
13.Seenivasan
14.Dharmar
15.Ponnusamy
16.Nagarajan
17.Alex Pandian
18.Ravikumar
19.Malar Selvam

: Petitioners/Accused Nos.1-5, 7-12,
14, 16, 17, 20, 22, 23, 28 & 31

Vs.

1. The State
Rep. by the Inspector of Police,
Kannivadi Police Station,
Dindigul District,
(Cr.No.71/2014).

: Respondent/Complainant

2. Jeyapandi
Sub Inspector of Police,
Kannivadi Police Station,
Dindigul District.

: Respondent/Defacto complainant

Prayer : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records in connection with the charge sheet in C.C.No.66 of 2017, pending on the file of the Judicial Magistrate No.2, Dindigul and quash the same.



For Petitioners : Mr.N.Sathish Babu
For Respondents : Mr.K.Anbarasan
Government Advocate (Criminal Side)

ORDER

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The petitioners were conducted Aadal padal programme without obtaining necessary police permission nor any orders by this Court. Therefore, one Jeyapandi, Woman Sub Inspector of Police, Kannivadi Police Station, Dindigul District, went to stop the programme. She was woman handled by the petitioners resulting in registration of FIR in Crime No.71 of 2014. The police completed the investigation and filed the charge sheet against 31 accused in C.C.No.66 of 2017 before the learned Judicial Magistrate No.II, Dindigul for offences under Sections 147, 353 and 188 IPC. Challenging which, 19 accused are before this Court.

2. Heard the learned counsel for the petitioners and the learned Government Advocate for the respondents.

3. Without going into the other aspects of the case, it is seen that no charges under Section 188 IPC can be framed against the accused based on a police report under Section 173 Cr.P.C. in the light of the law laid down by the Hon'ble Supreme Court in **C.Muniappan v. State of Tamil Nadu** reported in **2010 (9) SCC 567**. Therefore, the order of the learned Judicial Magistrate No.II, Dindigul taking cognizance of the offence under Section 188 IPC stands quashed. However, on a reading of the final report, it is seen that there are *prima facie* materials to proceed against the petitioners for the offence under Sections 147 and 353 IPC.

4. In the result, this criminal original petition is partly allowed. The charges under Section 188 IPC alone is quashed and the Trial Court can proceed as against the accused for the offence under Sections 147 and 353 IPC. Consequently, connected miscellaneous petitions are closed.

5. The learned counsel for the petitioners sought permission of this Court to dispense with the personal appearance of the petitioners before the Trial Court. Accepting the submissions, this Court directed the petitioners to surrender before the learned Judicial Magistrate No.II, Dindigul, within a period of two weeks from the date of receipt of a copy of this order and obtain regular bail. Thereafter, the petitioners to appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C. for framing of charges and for questioning under Section 313 Cr.P.C. and on the day of judgment. For all other dates, if the petitioners file an application under Section 317 Cr.P.C., undertaking that they will not dispute their identity and that their counsel will cross-examine the prosecution witnesses in their absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioners adopt



any dilatory tactics, it is open to the Trial Court to insist upon their presence.

Sd/-
Assistant Registrar (CS-I)

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/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Dindigul.
2. The Inspector of Police,
Kannivadi Police Station,
Dindigul District.

+ 1 CC TO Mr.N.SATHISH BABU, ADVOCATE IN SR No. 60699

JIKR

TE/SV-MMS/SAR-III : 29/06/2017 : 3P/4C

Order made in
Crl.O.P.(MD)No.7348 of 2017 &
Crl.M.P.(MD).Nos.5009 and 5010 of 2017
16.06.2017