



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.11.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.O.P. (MD) No.16689 of 2011

and

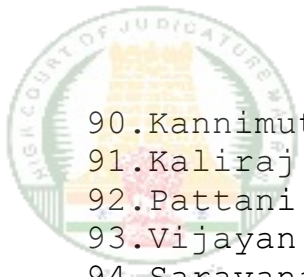
M.P. (MD) Nos.1 and 2 of 2011

WEB COPY

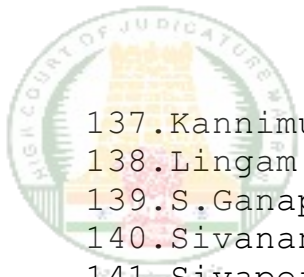
- 1.Arumugam
- 2.Sivaperumal
- 3.Murugan
- 4.Vijayakumar
- 5.Muthuraj
- 6.Muthukrishnan
- 7.Subramanian
- 8.Saravanan
- 9.Sri Krishnan
- 10.Patturaja
- 11.Sankar
- 12.Muthukrishnan
S/o.Selvaraj
- 13.Chithiraivel
- 14.Tamilvalan,
- 15.Sundar
- 16.Jeyabalan
- 17.Pradeep
- 18.Kannikumar
- 19.Siva
- 20.Chinnadurai
- 21.Mandiram
- 22.Mahesh
- 23.Selvakumar
- 24.Muthukrishnan
S/o.Arumugam
- 25.Vijayakumar
- 26.Sasikumar
- 27.Senthilkumar
- 28.Palavesamuthu
- 29.Elaiyaraja
- 30.Murugaperumal
- 31.Sudhakar
- 32.C.Raj
- 33.Thirumavalavan
- 34.Nanthan
- 35.G.Murugaperumal
- 36.Saravanamuthu
- 37.Muthuvalavan
- 38.Ramesh
- 39.Balaji
- 40.Murugan
- 41.Mohan
- 42.Esakkimuthu



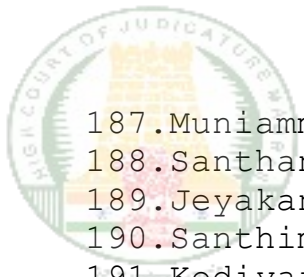
- 43.Indiran
- 44.Ponlingam
- 45.Muniraj
- 46.K.Perumal
- 47.K.Kannan
- 48.Selvaganapathy
- 49.V.Sivanraj
- 50.Murugan
S/o.Arunachalam
- 51.Muthuselvan
- 52.Premkumar
- 53.Muneeswaran
- 54.Chelladurai
- 55.Sri Balan
- 56.Rajalingam
S/o.Perumal
- 57.Balan
- 58.Elango
- 59.Palpandy
- 60.Thol.N.Vijayakumar
- 61.Vellaidurai
- 62.Mohanraj
- 63.Sudalaimani
- 64.Satheesh
- 65.Rajalingam
S/o.Vellaiyan
- 66.Jeyakumar
- 67.Periyasamy
- 68.P.Chinnadurai
- 69.M.Sarath
- 70.Anand
- 71.Packiaraj
- 72.Karnan Maharaja
- 73.Esakkimuthu
- 74.Anand
S/o.Tamil Selvan
- 75.Aravind Raj
- 76.S.Murugan
- 77.Muthulingam
- 78.Indiraraj
- 79.Kalidoss
- 80.Arunkumar
- 81.Rajendran
- 82.Sivakumar
- 83.Selvam
- 84.Kathiravan
- 85.Rameshkumar
- 86.Aravind
- 87.K.Arundhan
- 88.Raghavan
- 89.Vellaiyan



90. Kannimuthu
91. Kaliraj
92. Pattani
93. Vijayan
94. Saravanan
95. Rasiya
96. Chinnadurai
97. Tamil Eniyan,
98. Udhayakumar
99. Chiruthai Siva
100. Mariyappan
101. Sivan Raja
102. Karuppasamy
103. Raja
104. Manikanda Nathan
105. Shanmugaraj
106. A.N. Ayudhavel
107. Tamil Selvan
108. Vellaiyan
109. Subbaiah
110. Ravisankar
111. Auto Kannan
112. Selvakumar
113. Ramarajan
114. Praburaj
115. Selvam
116. Selvakumar
- S/o. Palpandi
117. Pavulraj
118. M. Saranraj
119. S. Jeyamurugan
120. Muniyandi
121. Murugan
- S/o. Arumugam
122. Nayinar
123. Muniyasamy
124. Rajinikanth
125. Anbu
126. Arunkumar
127. Palraj
128. Selvakumar
- S/o. Madasamy
129. Kannan
130. Anand
- S/o. Sivanandam
131. Thangaraj
132. Amalraj
133. Vijayababu
134. Tamilmuthu Paraiyar
135. Raj Paraiyar
136. Vadivel



137. Kannimuthu
138. Lingam
139. S. Ganapathy
140. Sivanantha Perumal
141. Sivaperumal
142. Sankar
S/o. Mayaperumal
143. Muthuraja
144. Vasantha
145. Ananda Nayagi
146. Panneer Selvi
147. P. Selvi
148. Eswari
149. Kannammal
150. Geetha
151. Perumal
152. Mutharu
153. Kanniga
154. Kanthari @ Kanthalakshmi
155. Pappa
156. S. Latha
157. Palkani
158. Pushpalatha
159. Ananda Jothi
160. Selvi
161. Ammal
162. Kovilmani
163. Roselin
164. S. Kala
165. Petchiammal
166. Prammu
167. Muthulakshmi
168. Valli
169. Sivananji
170. Fathima
171. Muthulakshmi
172. Pappa
173. Janaki
174. Pattu Muneeswari
175. Alagurani
176. Mooki
177. Sudanthira
178. Deivanayagi
179. Ponnuruvi
180. Meena
181. Annalakshmi
182. Vasantha
183. Sri Valli
184. Malathi
185. Rani
186. Valarmathi



187. Muniammal
188. Santhanapushpam
189. Jeyakani
190. Santhimuthu
191. Kodiyarasi
192. Panju
193. Mallika
194. Panjavarnam
195. Esakkiammal
196. Samudra Kani
197. Indira
198. Selvi
199. Valliyammal
W/o. Rajendran
200. Rajakani
201. Valliyammal
W/o. Senthilkumar
202. Kantha
203. Velkani
204. Muthulakshmi
205. Muthupechi
206. Muthukani
207. Saraswathi
208. Sappani Muthu
209. Muthupechi
210. Lingakani
211. Sasikala
212. Ananthi
213. Anthoniyammal
214. Chitra
215. Sorimuthu
216. Pechiammal
217. Sendu
218. Perumalpillai
219. Vadukachi
220. Sundar raj
221. Valli
222. Chairmankani
223. Rajeshwari
224. Valliyammal
W/o. Jeyaraj
225. Pathrakali
226. Vasuki
227. Pechukani
228. Murugakani
229. Elamthi
230. P. Sumathi
231. Ananthi
232. Sivagami
233. Jeyadevi
234. Selvi



235.Madurakani
236.Muthuselvam
237.Petchithai
238.Kasthuri
239.Tamil Selvi
240.Narayana Vadiyu
241.Lakshmi
242.S.Indira
243.M.Bhavani
244.M.Deivakani
245.M.Gowri

... Petitioners / Accused

Vs.

1. The State represented by,
The Inspector of Police,
Thiruchendur Police Station,
Thiruchendur.
(In Crime No.41 of 2011)

... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pending on the file of the Judicial Magistrate, Thiruchendur in S.T.C.No.502 of 2011 and quash the same.

For Petitioners : Mr.Arul Vadivel @ Sekar

For Respondent : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

* * *

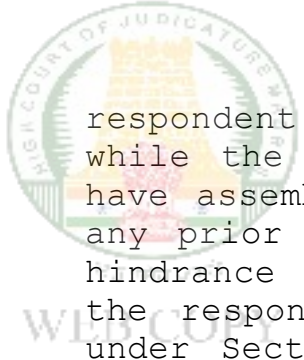
O R D E R

This petition has been filed under Section 482 Cr.P.C to quash the Proceedings in S.T.C.No.502 of 2011, in which the petitioners herein are the accused, pending on the file of the Judicial Magistrate, Thiruchendur.

2. Here the question involved in this case is whether the facts disclosed in the complaint or the final report will amount to constitute offence under Sections 147 and 188 of IPC, in the absence of a promulgation.

3.The brief facts of the petitioners' case that leading to file this Criminal Original Petition is as follows:

On 12.02.2011 at about 12.00 noon, the petitioners <https://hse.civildatas.gov.in/hse/cases> assembled before the Thiruchendur Main Arch and made a demonstration to arrest the members who had caused damages to Dr.Ambedkar digital board in Thiruchendur. Initially, the



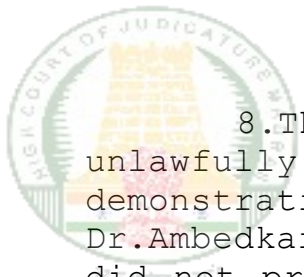
respondent registered FIR against the petitioners stating that while the respondent was on patrol, he saw the petitioners, who have assembled unlawfully near Thiruchendur Main Arch and without any prior permission, they made demonstration and thereby caused hindrance to the public and traffic. In pursuance of the same, the respondent himself registered a case in Crim No.41 of 2011 under Sections 143, 331 and 188 I.P.C. The Law Enforcing Agency after completing the investigation, filed the final report before the Judicial Magistrate, Thiruchendur against 245 persons/petitioners herein for the alleged offences under Sections 147, 143, 341 and 188 I.P.C. Thereafter, the said Court taken the final report on file in S.T.C.No.502 of 2011, implicating 245 persons/petitioners herein as accused.

4. The learned counsel appearing for the petitioners would submit that on the day, when the demonstration was made by the petitioners, there was no ban as referred to under Section 144 Cr.P.C and there is no promulgation by the respondent police. The learned counsel for the petitioner would further submit that since Dr.Ambedkar digital board was damaged by some people illegally, petitioners genuinely decided to make out demonstration in front of the Thiruchendur Main Arch to arrest the people who had caused damages to Dr.Ambedkar digital Board in Thiruchendur.

5. The learned counsel appearing for the petitioners would further submit that the First Information Report registered by the respondent does not contain any definite acquisition which amounts to abuse of process of law. When there is no offence said to have been committed by the petitioners, implicating them within the penal provision of Sections 147, 143, 341 and 188 IPC does not arise. In the absence of any evidence or document for implicating the petitioners in the criminal case, it is an abuse of process of law.

6.The learned Government Advocate (Criminal Side) appearing for the State would submit that the petitioners without any prior permission, unlawfully assembled in front of the Tiruchendur Main Arch and made a demonstration, demanding to arrest the people who had caused damages to Dr.Ambedkar digital board. Accordingly, the Law Enforcing Agency registered a case under Sections 147, 143, 341 and 188 IPC in Crime No.41 of 2011 and the challenge made against the complaint at the initial stage, is not maintainable. The inherent jurisdiction of this Court can be invoked, only if any manifest error or error apparent on the face of record. Accordingly, he prayed for dismissal of the Criminal Original Petition.

7. I have considered the rival submissions made by the learned counsel for the petitioners as well as the learned Government Advocate (Criminal Side) appearing for the respondent.



8. The admitted fact in dispute is that the petitioners unlawfully assembled before the Thiruchendur Main Arch and made a demonstration to arrest the members who had caused damages to Dr. Ambedkar digital board in Thiruchendur but the first respondent did not produce any material to show that on the particular day, promulgation was made to prevent the citizens to assemble in the city of Thiruchendur. In the absence of material, assembling of the persons in one place, cannot be said to be illegal. Hence, implicating the petitioner for offences under Sections 143, 147, 341 and 188 IPC does not arise, unless the Law Enforcing Agency establishes an order of promulgation was made.

9. The learned counsel appearing for the petitioner relied upon the judgment of this Court in **Murugesan and others v. State of Tamil Nadu** reported in **1989 Cr1.L.J.1833**, wherein at para 4 has been held as follows:

"4. Further, the materials on record also do not point out any violence or criminal force used by the petitioners on the relevant date and time. Therefore, mere presence of the petitioners in front of the Sri Mushnam Police Station without resorting to any violence or criminal force, would not constitute an offence under S.147 I.P.C."

10. On perusal of the above judgment, it is clear that when this Court comes to a conclusion that no case is made out against the accused/petitioner, the said benefit can also be extended to other persons, who were similarly placed like that of the petitioner herein. Accordingly, since no offence is made out as against the petitioner, the said benefit is also extended to all the accused in this case.

11. For quashing the Criminal complaint, I may usefully refer to a celebrated judgment of the Honourable Supreme Court in **R.P. Kapur Vs. State of Punjab** reported in **AIR 1960 SC 866**, wherein the Hon'ble Apex Court had summarised some of the categories of cases, where the inherent power under Section 482 of the Code could be exercised by the High Court to quash criminal proceedings against the accused. These are: [AIR P.869, Para 6]

(i) where it manifestly appears that there is a legal bar against the institution or continuance of the proceedings e.g. want of sanction;

(ii) where the allegations in the first information report or the complaint taken at their face value and accepted in their entirety do not

https://hcservices.ecourts.gov.in/services the offence alleged;



(iii) where the allegations constitute an offence, but there is no legal evidence adduced or the evidence adduced clearly or manifestly fails to prove the charge.

12. Applying the principles laid down by the Hon'ble Apex Court in the abovesaid decision cited supra, more particularly, Clauses (ii) and (iii) of **R.P. Kapur v. State of Punjab** (cited supra), which are squarely applicable to the case on hand, I have no hesitation to quash the Criminal complaint.

13. Accordingly, the Criminal Original Petition is allowed and the case in S.T.C.No.502 of 2011, on the file of the Judicial Magistrate, Thiruchendur, is quashed. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Thiruchendur.
2. The Inspector of Police,
Thiruchendur Police Station,
Thiruchendur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate Sr.No.87211

KMI/LS

VB/KK/SAR2/22/01/2018/9P/5C

Cr1.O.P.(MD)No.16689 of 2011
14.11.2017