

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2018

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.No.15087 of 2018
and Crl.M.P.No.7634 of 2018

1.Velusamy S/O.Ganapathyappan
2.Velusamy S/O.Rangasamy
3.Samynathan
4.Karthi
5.Chinnasamy
6.Suresh
7.Ramesh
8.Mahalingam
9.Palanisamy
10.Thangavel
11.Jeganathan
12.Neelavathi
13.Sivakami
14.Kumutha
15.Kavitha
16.Gandhimathi
17.Balamani
18.Dhanalakshmi

... Petitioners

Vs

1.The State by Inspector of Police
Palladam Police Station
Tiruppur District.
Crime. NO.441/2012

2.Jayaprakash
.. Respondents

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for entire records in Final Report pertaining to the
case in S.C.No.151 of 2017 on the file of the District Court,
Tiruppur and quash the same by allowing this criminal original
petition.

For Petitioners : Mr.R.Prabakar
For R1 : Mr.C.Raghavan
Government Advocate (Crl.Side)

O R D E R

This petition has been filed to call for the entire records in the Final Report pertaining to the case in S.C.No.151 of 2017 on the file of the District Court, Tiruppur and quash the same.

2. On the complaint lodged by Jayaprakash, the first respondent police registered a case in Cr.No.441 of 2017 on 15.05.2017 under Sections 147, 148, 451 IPC and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992 against Velusamy and others and after completing the investigation have filed a charge sheet before the Judicial Magistrate, Palladam and the case has now been committed to the Court of Session in S.C.No.151 of 2017 for the offences under Sections 147, 148, 454 IPC and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act, against 18 accused, challenging which the accused are before this Court.

3. Mr.Prabakar, learned counsel for the accused submitted that the accused have been falsely implicated in the case, inasmuch as the accused were agitating against the opening of TASMAC shop in their area and that they also gave a representation dated 23.01.2017 to the District Collector requesting him not to permit the opening of TASMAC shop, despite which, when the TASMAC shop was opened, they were only peacefully agitating and had not indulged in violence.

4. On the contrary, the learned Government Advocate (Crl.Side) refuted the said contention.

5. The FIR in this case has been registered on the complaint given by the Manager of the TASMAC shop. Admittedly, the TASMAC shop is run by the Government of Tamil Nadu themselves and not by any private party. Thus, the complainant is a Government servant himself. It is seen that the Government had opened the TASMAC shop no.1822 in Palladam - Manikkapuram Road and on the orders of the Supreme Court, the same was closed on 04.04.2017. On the orders of the District Collector, the shop was shifted to the premises of one Subramani in Survey No.338/2E after obtaining his written consent on 10.04.2017. Therefore, on the directions of the District Collector, shop no.1822 was relocated to the premises of Subramani on 15.05.2017 and liquor bottles were stored in the premises and the same was locked. Thereafter, on 15.05.2017, around 3.00 p.m., the accused named in the FIR and in the charge sheet gathered unlawfully and broke open the shop and caused damage to the liquor bottles belonging to the Government. In democracy, the accused have got right to agitate and vent their grievance, but, of course, the same has to be done peacefully within the parameters of law. In this case, the statement of witnesses that has been recorded by the

police shows the involvement of the persons in ransacking the shops and causing damage to the properties. Thus, when there are prima facie materials, the prosecution cannot be quashed in the light of the judgment of the Supreme Court in State of Haryana v. Bhajan Lal [AIR 1992 SC 604].

In the result, this petition is devoid of merits and the same is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police
Palladam Police Station
Tiruppur District.

2.The Judge Magistrate,
Palladam.

3.The District Court,
Tiruppur.

4.The Chief Judge Magistrate,
Tiruppur.

5.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.15087 of 2018

NRL(CO)
GSP(19/06/2018)

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