

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.04.2019
CORAM
THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN
Crl.O.P.No.8863 of 2019
and Crl.M.P.Nos.4737 and 4738 of 2019

1.Kartish Kumar
2.Saravana Thamilan
3.Murugesan
4.Jerish Beeji
5.Neethi Devan
6.Karthick
7.Stalin
8.Puviyarasi
9.Manjula
10.Tamil Selvi

... Petitioners

Vs.

The Inspector of Police,
B-1, North Beach Police Station,
Chennai-600 001.

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in C.C.No.1738 of 2018 on the file of the VII Metropolitan Magistrate, George Town, Chennai and quash the same.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

O R D E R

This Criminal Original Petition has been filed seeking to quash the charge sheet laid in C.C.1738 of 2018 on the file of the VII Metropolitan Magistrate, George Town, Chennai.

2.It is seen that on 24.05.2018 at about 2 p.m., the petitioners alleged to have unlawfully assembled in front of Traffic Office of Deputy Commissioner of Police North and shouted slogans as against the Commissioner, being responsible for Sterlite riot and 13 people have been shot dead. It is alleged that the petitioners prevented the Commissioner to resume his office do his work, thereby obstructing the traffic flow and caused nuisance to the public. Hence a case has been registered against the petitioners under Sections 341, 147, 188, 151, r/w 7(1)(a) CLA Act and filed a final report before the VII Metropolitan Magistrate, George Town, Chennai.

3.The learned counsel for the petitioners primarily raised two issues. The first issue is that the informant and the investigator in this case are the same person and therefore, the entire investigation is vitiated and the final report is liable to be quashed on this ground alone. In order to substantiate his submission, the learned counsel for the petitioners relied upon the recent Judgment of the Hon'ble Supreme Court reported in 2018 SCC Online SC 974 [Mohan Lal versus State of Punjab].

4. The second issue that was raised by the learned counsel for the petitioners is that the respondent police could not have filed a final report under Section 188 of IPC and it has been held by the reported Judgement of this Court in 2018 2 LW 606 [Jeevanandham and others Vs. State Rep. by Inspector of Police and another], that a final report under Section 188 of IPC cannot be taken cognizance on a police report filed under Section 173(2)Cr.P.C and it can be taken cognizance only based on the complaint given by the concerned public servant, in the light of Section 195 of the Code. The learned counsel would further submit that the allegations made in the final report does not attract the provisions of Sections 341, 147, 188, 151,r/w 7(1)(a) CLA Act. Therefore, the learned Magistrate ought not to have taken cognizance.

5.Heard both sides.

6.This Criminal Original Petition has to be allowed on the very first issue that has been raised by the learned counsel for the petitioner. It is seen that the complaint, investigation and also the final report has been filed by the very same police officer. Therefore, the entire investigation stands vitiated and the facts of this case is squarely covered by the Judgment of the Hon'ble Supreme Court referred supra.

7. In the result, the proceedings in C.C.No.1738 of 2018 on the file of the VII Metropolitan Magistrate, George Town, Chennai, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rm

To

1.The VII Metropolitan Magistrate,
George Town,
Chennai.

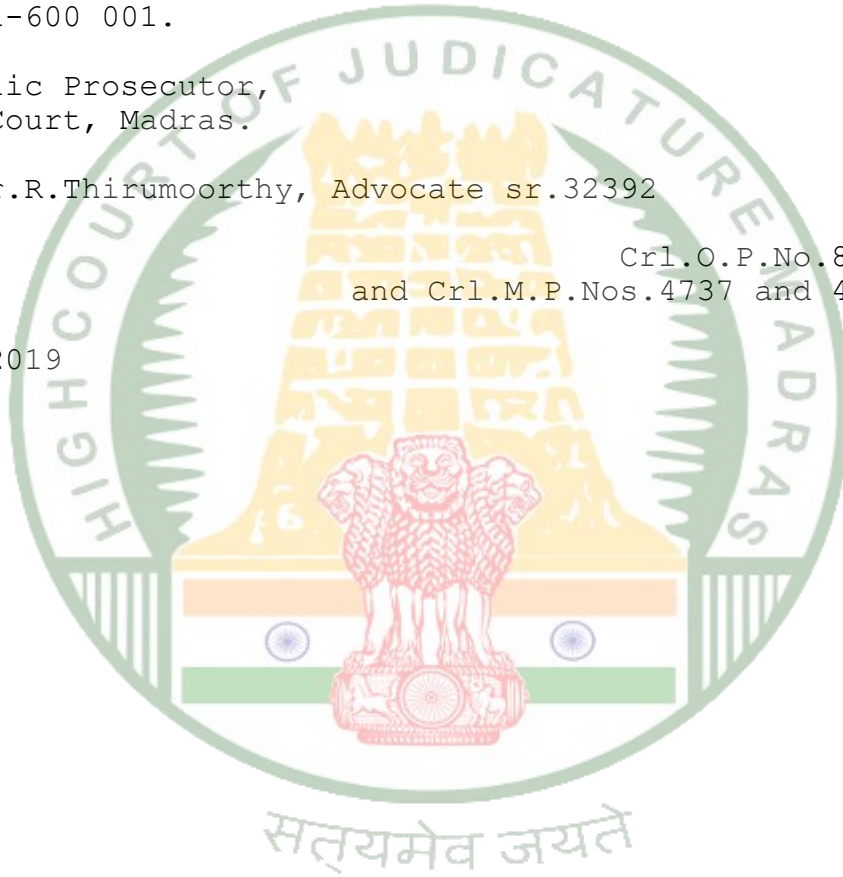
2.The Inspector of Police,
B-1, North Beach Police Station,
Chennai-600 001.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Thirumoorthy, Advocate sr.32392

Crl.O.P.No.8863 of 2019
and Crl.M.P.Nos.4737 and 4738 of 2019

nr 20/06/2019



WEB COPY