



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P. (MD) No.6744 of 2018

and

CrI.M.P. (MD) .Nos.3216 & 3217 of 2018

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1. Anthony Viyahappan
2. Michael
3. Jeyakumar
4. Raj
5. Saravanan
6. Kennady
7. Irudhayaraj
8. Baskar
9. Kaliappan
10. Adaikalam
11. Savariraj
12. Ananth
13. Deepak
14. Baskar
15. Soosai
16. Micheal
17. Johnpaul
18. Raja
19. Anthony
20. Desmond
21. Charles
22. Kappal
23. Payas
24. Jose
25. Ruban
26. Jeyaseelan
27. Sebasthiyan
28. John Micheal
29. Charles
30. Raja
31. Prabakaran
32. Aspan
33. Kottar
34. Innasi
35. Charles
36. Selvakumar

: Petitioners

-Vs-

1. The Superintendent of Police,
O/o. Superintendent of Police,
Tirunelveli District, Tirunelveli.



2.The Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District,
Tirunelveli.

(Crime No.23 of 2018)

: Respondents / Complainants

3.Iyyappan

: Respondent No.3 / De facto complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the First Information Report in Crime No.23 of 2018 dated 28.01.2018 for the offences under Sections 143, 188, 147, 294(b), 290, 291, 353, 323, 506(ii) I.P.C. 1860 and Section 3A of the Town Nuisance Act, 1889 and Section 5(1) of the Noise Pollution (Regulation and Control) Rules 2000 and quash the same as illegal as against the petitioner or in the alternative to transfer the investigation to another Police officer to be appointed by the first respondent.

For Petitioners

: Mr.T.Lajapathi Roy

For R1 & R2

: Mr.A.P.G.Ohm Chairma Prabhu

Government Advocate (Crl. side)

O R D E R

The present petition is laid for quashing the First Information Report in Crime No.23 of 2018, dated 28.01.2018, for the offences under Sections 143, 188, 147, 294(b), 290, 291, 353, 323, 506(ii) I.P.C. 1860 and Section 3A of the Town Nuisance Act, 1889 and Section 5(1) of the Noise Pollution (Regulation and Control) Rules 2000, on the file of the first respondent Police.

2.The entire occurrence has occurred in a Temple function and the villagers 38 in number have are alleged to have misbehaved with the Sub Inspector of Police.

3.Heard the learned Government Advocate (Crl. side) appearing for the respondents 1 and 2.

4.Since much of the submissions made by rival side pointed to as a scroll to express that laying of petition in the eventuality of final report is being laid against the petitioners, this Court has decided not to labour much and not narrating them.

5.However, broadly speaking there are two versions to the whole incident and it is a literal blame game. However, since the *de facto* complainant is the Sub Inspector of Police of the same station it may not be appropriate that the Inspector of Police investigate the matter since the petitioners have serious suspicion to the fairness of the investigation that would be



6. Therefore, this Court directs the Superintendent of Police to entrust the investigation by any other Inspector other than the one now engaged in the investigation and he is also directed to nominate the Deputy Superintendent of Police to oversee the said course of investigation.

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7. In view of the above direction, the Criminal Original Petition stands disposed of. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Superintendent of Police,
O/o. Superintendent of Police,
Tirunelveli District, Tirunelveli.

2. The Inspector of Police,
Alwarkurichi Police Station,
Tirunelveli District,
Tirunelveli.

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

+1 CC to M/s. T. LAJAPATHI ROY, Advocate (SR-55629[F] dated 21/03/2019)

TSG

Order made in
CRL.O.P. (MD) No. 6744 of 2018
Dated: 19.03.2019

KM/(15.04.2019) 3P 5C