



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2019

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.11467 of 2014

and

M.P. (MD)Nos.1 and 2 of 2014

and

Crl.O.P. (MD)No.14998 of 2015

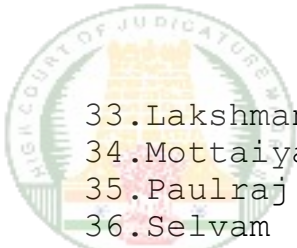
and

M.P. (MD)Nos.1 and 2 of 2015

- 1.P.Ramadoss
- 2.P.Gopal
- 3.M.Murugesan
- 4.M.Rajaram

... Petitioners in Crl.O.P.(MD)No.11467 of 2014
Accused 49, 50, 74, 75

- 1.Uppukara Thangavel
- 2.Ravi
- 3.Sekar
- 4.Ganesan
- 5.Murugan
- 6.Mariappan
- 7.Samiraj
- 8.Ramesh
- 9.Selvam
- 10.Palanisamy, S/o.Kaliappan
- 11.Muththamil
- 12.Velu
- 13.Arumugam
- 14.Pandi
- 15.Palanisamy, S/o.Chinnaiyan
- 16.Pandiyarajan
- 17.Kalimuthu
- 18.Periya Pandi
- 19.Sundara Pandi
- 20.Eeswaran
- 21.Oppuravu @ Subramani
- 22.Kumar
- 23.Sivamani
- 24.Deivendran
- 25.Irulan
- 26.Sivasubramani
- 27.Thiyagu
- 28.Kumar
- 29.Selvam
- 30.Prasanth
- 31.Raja
- 32.Veeramani



- 33.Lakshmanan
- 34.Mottaiyan
- 35.Paulraj
- 36.Selvam
- 37.Chinna Pandi
- 38.Rajapandi
- 39.Paraman
- 40.Murugan
- 41.Pandi
- 42.Periya Pandi @ Asaiyalagan
- 43.Muniyandi
- 44.Chellapandi
- 45.Rajamani
- 46.Muthupandi
- 47.Rajapandi
- 48.Nagaiah
- 49.Kamaraj
- 50.Alaguraj
- 51.Alagumani, S/o.Nagesh @ Ramasamy
- 52.Alagumani, S/o.Karuppanan
- 53.Ammukutti @ Pandian
- 54.Raman
- 55.Alagumani, S/o.Mottaiyandi
- 56.KUmar
- 57.Muthu Kamatchi
- 58.Vadivelu
- 59.Alaguraj, S/o.Pandi
- 60.Murugesan
- 61.Pandi
- 62.Silambarasan
- 63.Sekar
- 64.Jeeva
- 65.Chinnasamy
- 66.Nagaraj
- 67.Nehru
- 68.Pitchaimani
- 69.Rengan
- 70.Suresh
- 71.Gandhi
- 72.Karuppiah
- 73.Kulanthai Vel @ Katcha
- 74.Karutha Pandi
- 75.Palanisamy, S/o.Nagan
- 76.Ravi
- 77.Murugesan
- 78.Deivam
- 79.Periya Muniyandi @ Rajamani @ Muniyandi
- 80.China Muniyandi
- 81.Pathivu
- 82.Karuthapandi



84.A.Pandi
85.Murugiah
86.Paraman, (Millitary)
87.Shanmugam
88.Nagesh @ Ramasamy
89.Chakkarai

Petitioners in Crl.O.P.(MD)No.14998 of 2015
Accused 1 to 47, 51 to 53, 56 to 73, 76, 78 to
85, 87 to 93, 95 to 97, 99, 102 & 103
Vs

1.The State of Tamil Nadu rep. by its

Inspector of Police,
Devathanapatti Police Station,
Incharge Jeyamangalam Police Station,
Theni District.

(Crime No.202/2007)

... 1st Respondent / Complainant

2.Rameshkumar,

Sub Inspector of Police,
Devathanapatti Police Station,
Incharge Jeyamangalam Police Station,
Theni District.

... Respondent/Defacto Complainant
in both Crl.O.Ps

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in P.R.C.No.33 of 2008, on the file of the Judicial Magistrate, Periyakulam, Theni District and quash the same insofar as the petitioners are concerned.

(in both Crl.O.Ps)

For Petitioners : Mr.S.A.Ajmal Khan

For Respondents : Mr.A.Robinson

Govt. Advocate (Crl. Side) for R1

: No appearance for R2

COMMON O R D E R

These criminal original petitions have been filed to quash the committal proceedings in P.R.C.No.33 of 2008, on the file of the learned Judicial Magistrate, Periyakulam, Theni District.

2.The defacto complainant in this case is the Sub Inspector of Police, Devathanapatti Police Station. Crime No.202 of 2007 was registered on 07.10.2007 for the offences under Sections 147, 148, 353 and 307 of I.P.C. and final report came to be filed. Cognizance of the offences was taken. Since the offence under Section 307 of I.P.C., it is triable by the Sessions Court. The case was taken up for committal. At this stage, these criminal original petitions have been filed to quash the impugned proceedings.

3.Heard the learned counsel on either side.



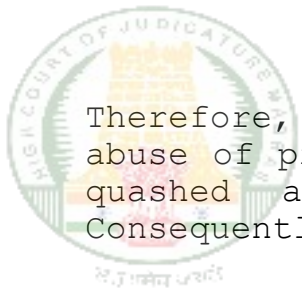
4.The case of the prosecution is that when the Mariamman temple Festival was conducted from 02.10.2007 to 04.10.2007, dispute arose among the devotees belonging to Pallar community. The Devotees belong to Devathanapatti colony and Sinduvampatti colony. One group stated that the other group should not participate in the temple festival. Since the two groups clashed between themselves, the police resorted to lathi charge. Since it was not possible to bring the crowd under control, the police fired four bullets in the air. According to the prosecution, the devotees in the group attempted to kill the police men and also prevented them from discharging their duties.

5.In the FIR no one has been named individually. The FIR states that about 300 persons belonging to Devathanapatti and 200 persons belong to Sinduvampatti had formed an unlawful assembly. When the final report was filed 103 persons were chosen as accused. Even though in the final report it is claimed that the crowd attempted to attack the police with deadly weapons, none of the police suffered even minor injury.

6.The learned counsel for the petitioners would claim that two other cases were registered against the petitioners and that both the cases ended in acquittal. It is obvious that that a single occurrence that took place in connection with a temple festival had culminated into three prosecutions. This is not in consonance with the decision reported in **[(2010) 12 SCC 254, Babubhai v. State of Gujarat and Others]** where it was held as follows :-

'Thus, in view of the above, the law on the subject emerges to the effect that an FIR under Section 154 Cr.P.C. is a very important document. It is the first information of a cognizable offence recorded by the Officer In-Charge of the Police Station. It sets the machinery of criminal law in motion and marks the commencement of the investigation which ends with the formation of an opinion under Section 169 or 170 Cr.P.C., as the case may be, and forwarding of a police report under Section 173 Cr.P.C. Thus, it is quite possible that more than one piece of information be given to the Police Officer In-charge of the Police Station in respect of the same incident involving one or more than one cognizable offences. In such a case, he need not enter each piece of information in the Diary. All other information given orally or in writing after the commencement of the investigation into the facts mentioned in the First Information Report will be statements falling under Section 162 Cr.P.C.'

7.It is also seen that the occurrence had taken way back in the year 2007. we are now in the year of 2019. Almost full 12 years have elapsed. The issue had witnessed two other criminal cases.



Therefore, continuance of the impugned proceedings will only be an abuse of process of law. Therefore, the impugned proceedings stand quashed and these criminal original petitions are allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

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To:

- 1.The Judicial Magistrate,
Periyakulam,
Theni District.
- 2.The Inspector of Police,
Devathanapatti Police Station,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-92272[F] dated 16/10/2019

CrI.O.P. (MD)No.11467 of
2014

and
CrI.O.P. (MD)No.14998 of 2015
15.10.2019

SMA/28/02/2020/5P/5C