

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 23.10.2019

CORAM:

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THE HONOURABLE **MR. JUSTICE G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) .No.15177 of 2019

and

Crl.M.P. (MD) No.9083 of 2019

- 1.Angel Raj
- 2.John Pritto
- 3.Ramesh @ Rameshkumar
- 4.P.Chelladurai
- 5.J.Johnson
- 6.Arockiyam
- 7.AT John @ John Kennedy
- 8.iruthayaraj
- 9.Seleth Raj
- 10.Johnson
- 11.Annaraj @ Joseph Annaraj
- 12.Manickam
- 13.Arockia Mary
- 14.Seleth Mary
- 15.L.Lusiya
- 16.Thangamani
- 17.Alish Mary
- 18.Pushpam @ Pushpa Rani
- 19.Jenifer
- 20.Mariya Jeya @ Mariya Jeya Ewilin
- 21.Vanasundari
- 22.Jeya @ V.Jeyamary
- 23.Arockia Selvi
- 24.Mary @ Arockiya Mary
- 25.Shanthi
- 26.Pernath
- 27.Thangammal @ Alphonse
- 28.Geetha @ Michael Marthal
- 29.Divya Nathan

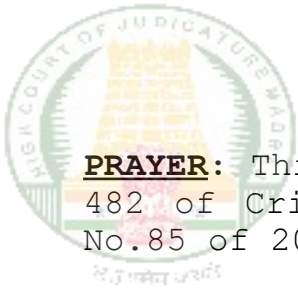
..Petitioners/Accused 1 to 29

Vs.

The State Rep. By,
The Inspector of Police,
Kodaikkanal Police Station,
Dindigul District.
(Crime No.85 of 2019)

<https://hcservices.ecourts.gov.in/hcservices/>

..Respondent/Complainant



PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.85 of 2019 on the file of respondent Police, and quash the same.

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For Petitioners : Mr.T.Villavan Kothai

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate(Crl.Side)

O R D E R

This quash petition is filed to quash the FIR in Crime No.85 of 2019 on the file of the respondent Police, thereby having been taken cognizance for the offences under Sections 143, 341 and 188 of I.P.C. as against the petitioners.

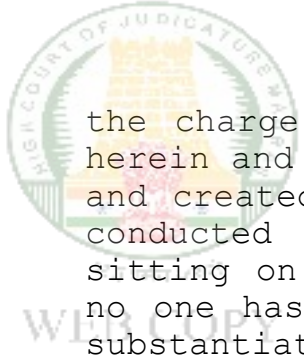
2.The case of the prosecution is that on 28.02.2019 at about 09.15 hrs the petitioners herein and other 28 persons were assembled near Kodaikanal bus stand and created slogans against Kodaikanal Municipal Administration and conducted struggle before the public and blocked the vehicles by sitting on the middle of the road. On the basis of the above said allegations, the respondent police registered the complaint as against these petitioners for the offences under Sections 143, 341 and 188 of I.P.C. in Crime No.85 of 2019 as against the petitioners. The said F.I.R. is under challenge in this Criminal Original Petition.

3.According to the petitioners, the petitioners are innocent persons. According to Section 195(1)(a) of Cr.P.C., no Court can take cognizance of an offence under Section 188 of IPC, unless the public servant has written order from the authority. Further he submitted that the petitioners or any other member had never disturbed public, public tranquility and peace and there is no evidence that the petitioners caused damages to the public property. The petitioner unaware about the order of the officials regarding procession. On precautionary measures, the respondent police had registered this case, under Section 143 and 188 of IPC as against the petitioners. Therefore, he sought for quashing the proceeding.

4.Per contra, the learned Government Advocate (Crl. Side) would submit that there are specific allegations as against the petitioners. Therefore, he vehemently opposed the quash petition and prayed for dismissal of the same.

5.Heard the learned counsel appearing for the petitioners and the learned Government Advocate (Crl. Side) appearing for the respondent/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioners is concerned, the respondent levelled the charge under Sections 143, 341 and 188 of I.P.C. as against the petitioners. It is seen from



the charge that on 28.02.2019 at about 09.15 hrs the petitioners herein and other 28 persons were assembled near Kodaikanal bus stand and created slogans against Kodaikanal Municipal Administration and conducted struggle before the public and blocked the vehicles by sitting on the middle of the road. Except the official witnesses, no one has spoken about the occurrence and no one was examined to substantiate the charge against the petitioners. It is also seen from the charge itself that the charges are very simple in nature and trivial. Section 188 reads as follows:

"188. Disobedience to order duly promulgated by public servant - Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both"

7.Considering the above, this Court finds that for the simple charge, the petitioners cannot be put into an ordeal trial. Therefore, this Court is inclined to quash the criminal proceedings as against the petitioners.

8.In view of the above discussions, this criminal original petition is allowed and the criminal proceedings in Crime No.85 of 2019 on the file of the respondent police is quashed as against the petitioners herein. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(cs-iii)

// True Copy //

Sub Assistant Registrar(CS)

vsg



1.The Inspector of Police,
Kodaikkanal Police Station,
Dindigul District.

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

+1CC TO MR.T.VILLAVANKOTHAI, Advocate Sr. No. 93881

CrI.O.P.(MD).No.15177 of 2019
and
CrI.M.P.(MD) No.9083 of 2019
23.10.2019

MR(CO)
TR(18.11.2019) 4P 4C