



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2019

CORAM

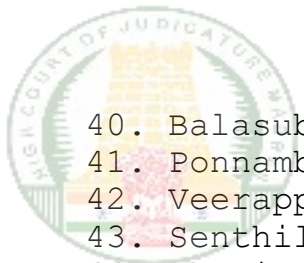
THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

Cr1. O.P. (MD) No. 14373 of 2019

and

Cr1. M.P. (MD) Nos. 8682 and 8683 of 2019

1. E. Ramar
2. Annathurai
3. Selvamani
4. Vadivel
5. Thangarasu
6. Venkadachalam
7. Muthusamy
8. Chinnayyan
9. Elangovan
10. Selvaraj
11. Suresh Kumar
12. Selvaraj
13. Thandavaprasath
14. Annavi
15. Chandran
16. Kalaiselvan
17. Anbazhagan
18. Pitchimani
19. Manoharan
20. Dhamotharan
21. Murugesan
22. Kumaresan
23. Rajkumar
24. Sakthivel
25. Sangapillai
26. Thangavel
27. Kalimuthu
28. Ramasamy
29. Srinivasan
30. Karuppannan
31. Lakshmannan
32. Raman
33. Subramani
34. Raghavan
35. Murugesan
36. Rajkumar
37. Ramachandran
38. Ramesh Kumar
39. Prabhu



40. Balasubramanian
41. Ponnambalam
42. Veerappan
43. Senthilram
44. Thanigasalam
45. Murugesan
46. Rajendran
47. Albons
48. Ravisanthiran
49. Raman
50. Murugesan
51. Sevanthi
52. Manickam
53. Nadarajan
54. Ramamurthi
55. Sekar
56. Subramani
57. Lakkuvan ... Petitioners/

First and Third and Fifth to Fifty Seventh Accused

-vs-

The State Rep. by
The Inspector of Police,
Thogamalai Police Station,
Karur District.
(Crime No. 193/2017)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, praying to call for the records pertaining to the Charge Sheet in S.T.C. No. 1723/2019 on the file of the Learned Judicial Magistrate No. 1, Karur, Karur District and quash the same.

For Petitioners : Mr. S.Kumaradevan for Mr. M.Bindran

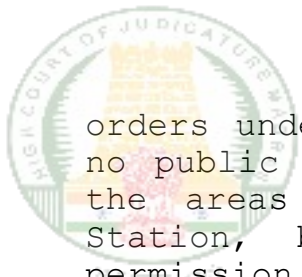
For Respondent : Mr. G.Raman,
Government Advocate (Criminal Side)

O R D E R

Heard Mr. S.Kumaradevan, Learned Counsel appearing for the Petitioners and Mr. G.Raman, Learned Government Advocate (Criminal Side) appearing for the Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioners have preferred this Petition invoking the inherent jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973, to quash the charge-sheet in S.T.C. No. 1723 of 2019 on the file of the Learned Judicial Magistrate No. 1, Karur, Karur District.

3. According to that charge-sheet, in view of the prohibitory



orders under Section 30(2) of Police Act, whatever be the reasons, no public meeting or demonstration or rally could be conducted in the areas falling under the jurisdiction of Thogaimalai Police Station, but the Petitioners on 25.04.2017 without obtaining permission have conducted demonstration near the Thogamalai Bus Stand, condemning the activities of the Government, falling under the jurisdiction of Thogamalai Police Station and thereby committed offences punishable under Sections, 341, 143 and 188 of the Indian Penal Code, 1860.

4. It has been held by this Court in **Jeevanandham -vs- State** [2018-2-L.W. (Crl.) 606] that by virtue of Section 195(1) of the Code of Criminal Procedure, 1973, a Police Officer cannot register any First Information Report in respect of an offence punishable under Section 188 of the Indian Penal Code, 1860, and he could only exercise the powers conferred under Section 41 of the Code of Criminal Procedure, 1973, for preventive action and thereafter inform the same to the concerned public servant, who has been authorised to give complaint in writing before the jurisdictional Magistrate in that regard. It has also been held therein that any form of agitation will necessarily cause some hindrance to the movement of the general public for sometime and that by itself, does not constitute offence of wrongful restraint punishable under Section 341 of Indian Penal Code, 1860. That apart, the Hon'ble Supreme Court of India in **Mohan Lal -vs- State of Punjab** [(2018) 17 SCC 627] has declared that a fair investigation, which is but the very foundation of fair trial, necessarily postulates that the informant and the investigator must not be the same person. It is borne out from the records of this case that the Police Officer, viz., Mr. Suresh Kumar, Inspector of Police, Thogamalai Police Station, has not only registered the First Information Report, but also filed the charge-sheet after investigation, and that too, without following the mandatory procedure, which vitiates the proceedings on those grounds.

5. Insofar as the charge under Section 143 of Indian Penal Code, 1860, is concerned, it is based upon the commission of the offences under Sections 188 and 341 of the Indian Penal Code, 1860, and as such, it cannot independently survive so as to prosecute the Petitioners only for that charge. The same view has been expressed by this Court in **K.Adaikkalam -vs- State** [1993-1-L.W. (Crl.) 650].

6. It emerges from the foregoing discussion that the Petitioners have made out a case that the intervention of this Court is necessary to abort the impugned prosecution which cannot ultimately succeed. Accordingly, the prosecution of Petitioners under Sections 341, 143 and 188 of the Indian Penal Code, 1860, cannot be sustained and the charge-sheet in S.T.C. No. 1723 of 2019 on the file of the Learned Judicial Magistrate No. 1, Karur, Karur District, is quashed.



7. In fine, the Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (CS-II)

/ /2020

Sub Assistant Registrar (CS)

VJT

To

1. The Inspector of Police,
Thogamalai Police Station,
Karur District.
2. The Judicial Magistrate-I,
Karur,
Karur District.

Cr1. O.P. (MD) No. 14373 of 2019
22.11.2019

SMA/02/06/2020/4P/3C