

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

DATED : 23.10.2019

CORAM:

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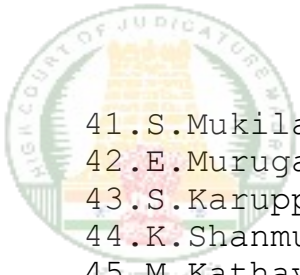
THE HONOURABLE **MR. JUSTICE G.K.ILANTHIRAIYAN**

Crl.O.P. (MD) .No.14868 of 2019

and

Crl.M.P. (MD) Nos.9121 and 9122 of 2019

- 1.A.Karthick Kumar
- 2.K.Thangapandiyan
- 3.K.Murugan
- 4.Thavidan @ Murugan
- 5.Mariappan
- 6.Muthukumar
- 7.Suseendran
- 8.R.Muthukumar
- 9.P.Sekar
- 10.Mahendran
- 11.M.Ponraj
- 12.Shanmugavel
- 13.K.Prem
- 14.Ganesan
- 15.Meerasu
- 16.R.Thangaraj
- 17.K.Kalidoss
- 18.T.Wilson
- 19.J.Sundararaj
- 20.S.Veerapandian
- 21.R.Gurusamy
- 22.Velayutha Pandiyan
- 23.G.Chinnathambi
- 24.V.Sanka raman
- 25.Esakkimuthu
- 26.S.Pandiyan
- 27.S.Paramasivan
- 28.S.Velayutha Thevar
- 29.S.Vembu
- 30.K.Malaiveeran
- 31.A.Chellapa
- 32.C.Thangaraj
- 33.A.Suresh
- 34.M.Pitchaiya
- 35.G.Jeyakumar @ Chithambaram
- 36.K.Marimuthu
- 37.P.Krishnan
- 38.S.Sudalai
- 39.K.Kavaiya
- 40.S.Sigamani



41.S.Mukilan
42.E.Murugan
43.S.Karuppusamy
44.K.Shanmuga Sundaram
45.M.Kathavarayan
46.K.Muthuselvan
47.T.Durai
48.K.Mohan @ Ramachandran
49.K.Patchaimal Pandiyan
50.R.Srinivasan
51.P.Arumugam Mudaliar
52.V.Sudalaimuthu
53.A.Ramaiya @ Ayyadurai
54.V.Sangupandiyan
55.C.Sithayee
56.A.Paramasivan
57.P.Krishnan @ Ettaiya Krishnan
58.S.Chandran ..Petitioners/Accused No.3
to 5, 7, 9to 12, 14 to 36 38 to
43, 45 to 57, 59, 61 to 63, 65 to 68

Vs.

1. The Inspector of Police
Courtalam Police Station,
Tirunelveli District. ...1st Respondent/Complainant
- 2.Samuthiram,
The Sub Inspector of Police,
Courtalam Police Station,
Tirunelveli District. ..2nd Respondent/Defacto Complainant

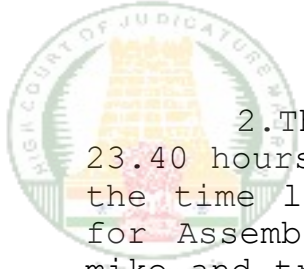
PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the entire records of the case relating to S.T.C.No.1265 of 2019 pending on the file of Judicial Magistrate No.1, Tirunelveli District and quash the same in so far as petitioners/ Accused 3 to 5, 7, 9 to 12, 14 to 36, 38 to 43, 45 to 57, 59, 61 to 63, 65 to 68 is concerned.

For Petitioners : Mr.S.Sundarapandian

For Respondent : Mr.K.Suyambulinga Bharathi
No.1 Government Advocate(Crl.Side)

ORDER

This quash petition is filed to quash the criminal proceedings in S.T.C.No.1265 of 2019 on the file of the Judicial Magistrate No.I, Tirunelveli District, thereby having been taken cognizance for the offences under Sections 143 and 188 of I.P.C. as against the petitioners.



2.The case of the prosecution is that on 21.03.2011 at about 23.40 hours while the Election, the petitioners and others exceeding the time limit fixed by the Election Commission and canvassed vote for Assembly Election from the Courttalam Public by way of using mike and trump set by violating the Election code of conduct. Hence, the second respondent lodged a complaint before the first respondent police and first respondent police registered a case in Crime No.180 of 2011 for offences under Sections 143 and 188 of I.P.C and the case was taken cognizance by the Judicial Magistrate Court, Chenkottai in S.T.C.No.3936 of 2011. Subsequently, all the Election cases were transferred to Special Court. Hence, the said case was transferred to Judicial Magistrate No.1, Tirunelveli District in S.T.C.No.1265 of 2019. The said criminal proceedings is under challenge in this criminal original petition.

3.The learned counsel appearing for the petitioners would submit that the petitioners have not committed any offences as alleged by the prosecution. Due to political enmity, a false case has been foisted. The petitioners have not violated any rules and model code of conduct relating to election. He would further contend that the charge against the petitioners was not attracted, since there is no allegation against the petitioners that he has violated the election rules/model code of conduct. Further, he would contend that there is absolutely no witnesses have spoken about the occurrence and to connect the petitioners, there are no materials to proceed with the trial. When there is no material to proceed with the trial, the petitioners unnecessarily would not have put them an ordeal trial. Therefore, he prayed for quashment of the criminal proceedings.

4.Per contra, the learned Government Advocate(Crl.Side) would submit that there are specific allegations as against the petitioners to proceed with the trial. Further, he would submit that the petitioners are a habitual offender by committing this kind of crimes. 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 respondents/State and perused the materials available on record.

6.On a perusal of the charge as against the petitioners are concerned, the first respondent levelled the charge under Sections 143 and 188 of I.P.C. as against the petitionesr. It is seen from the charge that on 21.03.2011 at about 23.40 hours while the Election, the petitioners and others exceeding the time limit fixed by the Election Commission and canvassed vote for Assembly Election from the Courttalam Public by way of using mike and trump set by violating the Election code of conduct. 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 tends 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 S.T.C.No.1265 of 2019 on the file of the Judicial Magistrate No.I, Tirunelveli District, is quashed as against the petitioners herein. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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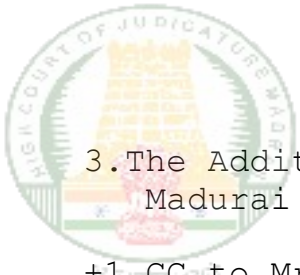
Sub Assistant Registrar (CS)

vsg

To

1. The Judicial Magistrate No.I,
Tirunelveli District.

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



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

+1 CC to Mr.S.SUNDARAPANDIAN, Advocate (SR-94187[F] dated
24/10/2019)

CrI.O.P.(MD) .No.14868 of 2019
and

CrI.M.P.(MD) Nos.9121 and 9122 of 2019
23.10.2019

VB(14.11.2019) 5P 5C