



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 22.11.2019
CORAM**

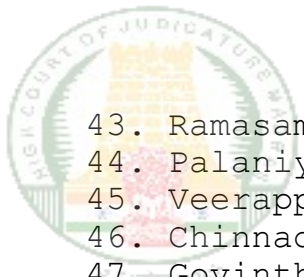
THE HON'BLE MR.JUSTICE P.D.AUDIKESAVALU

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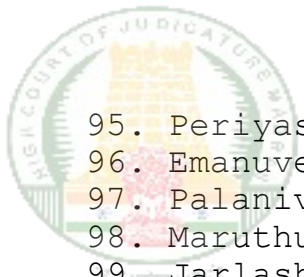
**Crl. O.P. (MD) No. 15624 of 2019
and**

Crl. M.P. (MD) Nos. 9241 and 9243 of 2019

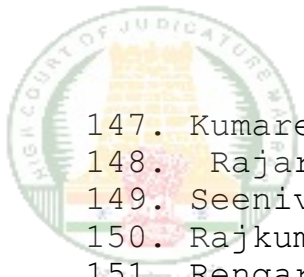
1. Ramar
2. Santhiran
3. Rengaraj
4. Kamaraj
5. Karunakaran
6. Palanisamy
7. Sellaperumal
8. Prabhakaran
9. Nilavarasan
10. Ramesh
11. Marimuthu
12. Siva M.
13. Selvam A.
14. Balasubramani
15. Kanagaraj
16. Damotharan
17. Nadanamoorthy
18. Subramani
19. Samynathan
20. Annadurai
21. Pitchimani
22. Manikkam
23. Maruthai
24. Rajalingam
25. Rathinam
26. Subramani
27. Rangar
28. Chinnaiyan
29. Ramalingam
30. Seenivasan
31. Lakshmi Narayanan
32. Perumal
33. Krishnamoorthy
34. Elangovan
35. Sakthivel
36. Gopinath
37. Bakkiaraj
38. Kuppamuthu
39. Vetrivel
40. Muniyappan
41. Ramesh
42. Rajendran



43. Ramasamy
44. Palaniyandi
45. Veerappan
46. Chinnadurai
47. Govinthasamy
48. Karuppasamy
49. Seerangan
50. Sellaganesan
51. Ramar
52. Krishnan
53. Sivakumar
54. Manikkam
55. Velusamy
56. Chinnadhurai
57. Murugesan
48. Maruthairaj
59. Elankovan
60. Thangaraj
61. Perumal
62. Sakthivel
63. Sasikumar
64. Ayyar
65. Thangaraj
66. Selvam
67. Thangavel
68. Ponnusamy
69. Karuppasamy
70. Palaniyappan
71. Palaniyappan
72. Rajkumar
73. Koyilan
74. Palaniyappan
75. Vadivel
76. Mahalingam
77. Subramaniayan
78. Sellamani
79. Ramasamy
80. Balasuubramani
81. Kalimuthu
82. Akkim
83. Krishnamoorthy
84. Pon Periyasamy
85. Palanisamy
86. Ponnampalam
87. Thangavel
88. Albons
89. Ponnar
90. Malaiyalam
91. Karuppannan
92. Santhanam
93. Manojaran
94. Murugesan



95. Periyasamy
96. Emanuvel
97. Palanivel
98. Maruthu
99. Jarlash
100. Rajkumar
101. Kanagraj
102. Ponnampalam
103. Rajamanikkam
104. Perumal
105. Kuppamuthu
106. Thangaraj
107. Sampathkumar
108. Subramani
109. Ponnusamy
110. Arumugam
111. Balasubramani
112. Arumugam
113. Muthukrishnan
114. Kumar
115. Annavi
116. Manivel
117. Kanthasamy
118. Moganthash
119. Pandiyan
120. Arumugam
121. Manikkam
122. Ragavan
123. Nadarajan
124. Rasu Perumal
125. Karuppasamy
126. Gandhi
127. Karthigeyan
128. Palaniyappan
129. Selvaraj
130. Palanisamy
131. Palaniyappan
132. Mahamuni
133. Krishnan
134. Premkumar
135. Murugesan
136. Chinnadhurai
137. Bakkiyaraj
138. Maruthai
139. Mahenthiran
140. Devitkannan
141. Pandiyarajan
142. Arumugam
143. Chinnadurai
144. Murugesan
145. Manikandan
146. Periyasamy



147. Kumaresan
 148. Rajaram
 149. Seenivasan
 150. Rajkumar
 151. Rengaraj
 152. Vengatraman
 153. Nagarajan
 154. Arumugam
 155. Mookkan
 156. Rengaraj
 157. Rengan
 158. Subramani
 159. Ramaya
 160. Sownthirrajan
 161. Senthilram
 162. Manikkam
 163. Thandavaprasath
 164. Jeyapal
 165. Ravisanthiran
 166. Raman
 167. Mohan
 168. Sevanthi
 169. Kumar
 170. Palaniyandi
 171. Subramani
 172. Rakkan
 173. Mani
 174. Palanimuthu
 175. Ramamoorthy
 176. Baburaj
 177. Raja
 178. Bashkar
 179. Nanthakumar
 180. Sivakumar
 181. Sangam
 182. Balakrishnan
- ... Petitioners / Accused Nos.1 to 182

-vs-

The State Rep. by
Sub Inspector of Police,
Thangamalai Police Station,
Karur District,
(Crime No. 128/2017)

... 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. 1724/2019 on the file of the Learned Judicial Magistrate No. 1, Karur, Karur District and quash the same.



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

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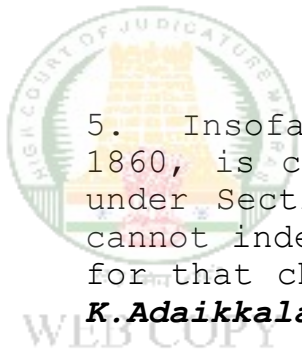
O R D E R

Heard 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. 1724 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 at about 10.00 a.m. on 13.03.2017 without obtaining permission have conducted demonstrations in front of the Fair Price Shops at R.T. Malai, Puzhutheri, Valiyampatti, Kavalkaranpatti, P. Udaiyampatti, Keeranur, Balasamuthirapatti, Chinnareddipatti, Vazhaikinam, Goodalur, Kalladai, Keezhaveliyur, Thogaimalai, Kazhugoor falling under the jurisdiction of Thogaimalai Police Station and thereby committed offences punishable under Sections 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. 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, Thogaimalai 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 offence under Section 188 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. (Cr1.) 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 143 and 188 of the Indian Penal Code, 1860, cannot be sustained and the charge-sheet in S.T.C. No. 1724 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.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

1.The Judicial Magistrate No.1,
Karur, Karur District.

2.The Sub Inspector of Police,
Thogamalai Police Station,
Karur District.

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

Cr1. O.P. (MD) No. 15624 of 2019
22.11.2019

vjt/sj

SDS (02.06.2020) 6P-4C