



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.11.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P(MD)No.13485 of 2020

and

Crl.M.P.(MD)Nos.6186 and 6187 of 2020

WEB COPY

- 1.Antony Viyahappan
- 2.Micheal @ Micheal Raja
- 3.Jeyakumar @ Antony Jeya Kumar
- 4.Raj @ Micheal Raj
- 5.Saravanan
- 6.Kennady @ Maria Henry
- 7.Irudhayaraj
- 8.Baskar
- 9.Kaliyappan
- 10.Adaikalam @ Adaikalaraj
- 11.Savariraj
- 12.Ananth @ Anantharaja
- 13.Antony Deepak
- 14.Baskar
- 15.Soosai
- 16.Micheal @ Arul Micheal
- 17.Johnpaul
- 18.Raja @Amaliyus Valerian Raja
- 19.Anthony @ Francis Antony
- 20.Desmand @ Desmond Gnana William
- 21.Charles @ Charles Micheal
- 22.Kappal @ Lodhu Selvaraj
- 23.Piousrai
- 24.Jose
- 25.Ruban @ Ruban Jeba Kumar
- 26.Jeyaseelan
- 27.Sebasthiyar
- 28.John Micheal
- 29.Charles
- 30.Raja @ Tharmaraj
- 31.Prabakaran @ Micheal Prabhakaran
- 32.Aspan
- 33.Kottar
- 34.Innasi @ Innasi Muthu
- 35.Charles
- 36.Selvakumar @ Joseph Selvakumar : Petitioners/Accused Nos.1 to 36

vs

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Tirunelveli District, Tirunelveli.



2.The Inspector of Police,
Alwarkurici Police Station,
Tirunelveli District, Tirunelveli.
Crime No.23 of 2018.

:Respondents/Complainants

3.Iyappan,
Govt Official Non-Gazetted,
Grade I Police Constable,
Alwarkurichi Police Station,
Tirunelveli District.

:Respondent/Defacto Complainants

PRAYER: Petition filed under Section 482 of Code of Criminal Procedure, to call for the records pertaining to the Charge Sheet in C.C.No.13 of 2020, on the file of the learned Judicial Magistrate Court, Ambasamudram in Crime No.23 of 2018, dated 28.01.2018 on the file of the first respondent and quash the same as illegal as against the petitioners alone.

For Petitioners : Mr.T.Lajapathi Roy
For Respondents : Ms.S.E.Veronica Vincent,
Government Advocate, for R1& R2.

O R D E R

This Criminal Original Petition has been filed to quash the Charge Sheet in C.C.No.13 of 2020, on the file of the learned Judicial Magistrate Court, Ambasamudram in Crime No.23 of 2018, dated 28.01.2018 on the file of the first respondent, as illegal as against the petitioners alone.

2.The allegation in the FIR is that on 28.01.2018, while the defacto complainant who is a Grade-I Police Constable along with his colleagues were in official duty for giving protection to St.Anthoniyar Church festival, the petitioners along with others conducted prayer program with huge noise pollution and while the defacto complainant and his colleagues questioned the same, they abused them in filthy language and attacked the defacto complainant and caused injuries.

3.The learned counsel for the petitioner would reiterate the contentions raised in the affidavit.

4.The learned Government Advocate (Crl.Side) would state that the petitioners abused the defacto complainant and his colleagues who were in official duty and attacked the defacto complainant by hands and therefore, the above FIR has been filed.

5.Perusal of record shows that the charges are very trivial and simple in nature. The reading of the FIR clearly shows that the informant and the investigation officer is one and the same and the said issue is squarely covered by the judgment of the Hon'ble



Supreme Court in Mohal Lal vs. The State of Punjab, Crl.A.No.1880 of 2011 dated 16.08.2018, wherein, this Court has held as follows:-

''25.In view of the conflicting opinions expressed by different two Judge Benches of this Court, the importance of a fair investigation from the point of view of an accused as a guaranteed constitutional right under Article 21 of the Constitution of India, it is considered necessary that the law in this regard be laid down with certainty. To leave the matter for being determined on the individual facts of a case, may not only lead to a possible abuse of powers, but more importantly will leave the police, the accused, the lawyer and the courts in a state of uncertainty and confusion which has to be avoided. It is therefore held 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. Justice must not only be done, but must appear to be done also. Any possibility of bias or a predetermined conclusion has to be excluded. This requirement is all the more imperative in laws carrying a reverse burden of proof".

6.The above judgment is squarely applicable to the present case and therefore, without going into the other issues, I am inclined to quash the charge sheet. Accordingly, the charge sheet in C.C.No.13 of 2020 on the file of the learned Judicial Magistrate, Ambasamudram, is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala/das

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:-

- 1.The Superintendent of Police,
O/o.The Superintendent of Police,
Tirunelveli District, Tirunelveli.
- 2.The Inspector of Police,
Alwarkurici Police Station,
Tirunelveli District, Tirunelveli.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC to Mr.T.Lajapathy Roy, Advocate SR-23270

Crl.O.P (MD) No.13485 of 2020

DATED : 27.11.2020

SV(CO)

KB(04.01.2021) 4P 5C