



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 28.02.2020
PRONOUNCED ON: 21.05.2020
CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

Crl.O.P.(MD)Nos. 22633 of 2016, 17367 of 2018
& 6300 of 2019 and Crl.M.P.(MD)Nos.11836 & 11837 of 2016, 7669 &
8324 of 2018 & 4172 of 2019

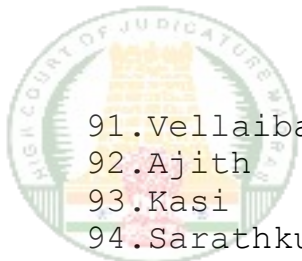
CRL.O.P.(MD)No.22633 of 2016

1. Rajasekaran
2. Arumugam @ Ayyasamy
3. A.P.Vairavan
4. Thiruppathy
5. Dinesh @ Dineshkumar
6. Kumar
7. Patchaiappan
8. Mariappan
9. Mankaan @ Sekar
10. Murugan
11. Surendar
12. Ramesh
13. Muthukumar
14. Ravi
15. Raman
16. Arumugam
17. Rajendran
18. Anbu @ Anbarasu
19. Balu
20. Anbarasu
21. Selvamani
22. Selvaraj
23. Ranjith
24. Kakkannaiah
25. Ravi
26. Harichandran
27. Krishnan @ Lakshmanan
28. Alaguraja
29. Selvaganesh
30. Rajeshkannan
31. Vignesh
32. Boominathan
33. Ravi
34. Thirunavukarasu
35. Arumugam
36. Selvam
37. Araman
38. M. Durai
39. Anand @ Anandhan
40. Ramasamy

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- 41.Devan
- 42.Kaleeswaran
- 43.Ravichandran
- 44.Prakash
- 45.Balu
- 46.Murugan
- 47.Annappan
- 48.Murali
- 49.Murugan
- 50.Marimuthu
- 51.Babu
- 52.Ramasamy
- 53.Ramachandran
- 54.Patchaimuthu
- 55.Rasu
- 56.Balasundar
- 57.Murugesan
- 58.Rasu
- 59.Selvam
- 60.Thavamani
- 61.Chellakannu
- 62.Perumal
- 63.Manoharan
- 64.Balakumar
- 65.Sathish
- 66.Rajkumar
- 67.Gopi
- 68.Ramesh
- 69.Mayalagu
- 70.Perumal
- 71.Malairaj
- 72.Bose
- 73.Murugesan
- 74.Muthu
- 75.Pillappan
- 76.Mathavan
- 77.Vairavan
- 78.Suresh
- 79.Sathish
- 80.Sathish
- 81.Sasikumar
- 82.Vijay
- 83.Jegadish
- 84.Aravind
- 85.Manoj
- 86.Samikannu
- 87.Periyakaruppan
- 88.Elango
- 89.Senthil
- 90.Ganesan



91.Vellaibagan
92.Ajith
93.Kasi
94.Sarathkumar
95.Muruganantham
96.Vijay
97.Alagar
98.Vadivelu

... Petitioners/Accused

Vs.

1. The State rep. by,
The Inspector of Police,
Madhagupatti police station,
Sivagangai District.
(Crime No.135 of 2016) ... 1st Respondent/Complainant
2. The Village Administrative Officer,
Madagupatti Village,
Sivagangai District. ... 2nd Respondent/ Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in P.R.C.No.82 of 2016 on the file of the Judicial Magistrate No.I, Sivagangai and quash the same.

CRL.O.P.(MD)No.17367 of 2018

A.Vairavan ... Petitioner/Accused No.167
Vs.

1. The State rep. by,
The Inspector of Police,
Madhagupatti police station,
Sivagangai District.
(Crime No.135 of 2016) ... 1st Respondent/Complainant
2. Muthuvel,
S/o.Panchavarnam,
The Village Administrative Officer,
Madhagupatti,
Sivagangai District. ... 2nd Respondent/ Defacto complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in P.R.C.No.82 of 2016 on the file of the Judicial Magistrate No.I, Sivagangai pertaining to the impugned charge sheet filed by the first respondent in Crime No.135 of 2016 and quash the same in so far as the petitioner/accused No.167 is concerned.

CRL.O.P.(MD)No.6300 of 2019

1.M.Vairavan
2.Ganesan

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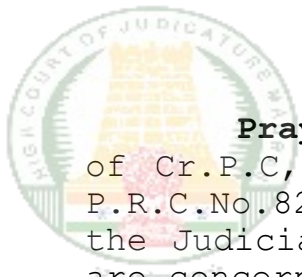


- 3.Malaisamy
- 4.Balu
- 5.Anbarasu
- 6.Selvam
- 7.Mangavu
- 8.Patchai
- 9.Balusamy
- 10.Velmurugan
- 11.Jeyaraman
- 12.Gnanasekaran
- 13.Dinesh
- 14.Raja
- 15.Karthick
- 16.Anbarasan
- 17.Thangaraj
- 18.Jeyarathinam
- 19.Perumal
- 20.Maheswaran
- 21.Malairaj
- 22.Dhruvidamani
- 23.Jegan
- 24.Arumugam
- 25.Mangavu
- 26.Kumar
- 27.Anand
- 28.Vairavan
- 29.Alagarsami
- 30.Aandikalai
- 31.Ganesan, S/o.Raman
- 32.Ganesan, S/o.Srini
- 33.Karuppiyah
- 34.Arumugam, S/o.Mongu Pagan
- 35.Arumugam, S/o.Vairavan
- 36.Perumal
- 37.Patchaimuthu
- 38.Kannan
- 39.Mani
- 40.Pillappan
- 41.Alagar

... Petitioners/Accused

Vs.

1. The State rep. by,
The Inspector of Police,
Madhagupatti police station,
Sivagangai District.
(Crime No.135 of 2016) ... 1st Respondent/Complainant
2. The Village Administrative Officer,
Madhagupatti,
Sivagangai District. ... 2nd Respondent/Defacto complainant



Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and quash the charge sheet in P.R.C.No.82 of 2016 filed by the first respondent before the file of the Judicial Magistrate No.I, Sivagangai as against the petitioners are concerned.

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For Petitioners : Mr.E.K.Kumaresan,
in Crl.O.P.(MD)No.6300 of 2019
Mr.M.Ramu
in Crl.O.P.(MD)No.22633 of 2016
Mr.M.Saravanan
in Crl.O.P.(MD)No.17367 of 2018
For R-1 : Mr.C.Emalias,
Additional Advocate General,
assisted by, Mr.A.Robinson,
Government Advocate(Crl.Side).

C O M M O N O R D E R

These petitions have been filed for quashing the proceedings in P.R.C.No.82 of 2016 on the file of the Judicial Magistrate No.I, Sivagangai.

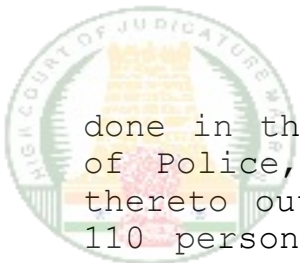
2. The case of the prosecution is that on 23.05.2016, a group of people belonging to Mutharayar community headed by one Muthukumar submitted a petition for celebrating 1341st birthday of King Suvaran Maran Perumpidugu Mutharayar on 23.05.2016. The said request was rejected by the Deputy Superintendent of Police, Sivagangai. The rejection of the request triggered reaction from the said community. On 23.05.2016 at about 7.00 p.m., a group of youngsters belonging to the said community went on a procession with the object of celebrating the function. Thereupon, Thiru.Senthurpandian, Sub Inspector of Police, Madhagupatti police station, reminded the group that in as much as the permission sought for by them stood rejected, they ought not to go ahead with the function. The accused went to Madhagupatti police station and shouted slogans and also blocked movement of vehicles on the main road. They refused to disperse and also attacked the public servants and caused damage to public property.

3. Based on the complaint given by the Village Administrative Officer, Crime No.135 of 2016 was registered. The matter was investigated and final report came to be filed against as many as 228 persons. The final report was taken on file by the learned Judicial Magistrate, Sivagangai, in P.R.C.No.82 of 2016. The petitioners herein are figuring as accused in the said case and to quash the proceedings, they filed these criminal original petitions.

4. Notice was ordered on 01.10.2018 by this Court.

5. On 24.01.2019, a learned Judge of this Court directed that interest of justice require that further investigation should be

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done in the matter. Based on that order, the Deputy Superintendent of Police, Sivagangai, completed his investigation and consequent thereto out of 228 persons who were originally arrayed as accused, 110 persons stood dropped. As such, the prosecution is confined only to 117 persons.

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6. Now the question is whether the prosecution should be allowed to go on against the remaining 117 persons or the entire proceedings deserve to be quashed.

7. Heard, Shri.C.Emalias, learned Additional Advocate General instructed by Shri.A.Robinson, learned Government Advocate(Crl. Side).

8. The learned counsel appearing for the petitioners reiterated the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned proceedings to secure the ends of justice.

9. Per contra the learned Additional Advocate General submitted that the case on hand has a communal tinge and involves attack on police personnel and damage to public property and that therefore the inherent powers of this Court are not to be exercised in this case. The value of damage assessed by the prosecution is at Rs.1,28,000/-. As many as nine police personnels and two staff belonging to TNSTC suffered injuries. This included Thiru.Balamurugan, Deputy Superintendent of Police, Sivagangai. Thiru.Mohan, Inspector of Police, Sivagangai Town police station, sustained a fracture in his right hand. He would also point out though only 49 persons were initially identified and implicated in the First Information Report, subsequently based on the information furnished by the Village Administrative Officer and confession of the arrested persons, as many as 228 persons came to be implicated in the final report. Following the further investigation conducted by the police, as many as 110 persons were deleted and the present charge sheet is confined only against 117 persons.

10. The learned Additional Advocate General would fervently plead that it is not possible to show further indulgence and called upon this Court to dismiss this criminal original petition. The learned Additional Advocate General was particularly concerned about the effect on morale of the police force.

11. I carefully considered the rival contentions and also went through the materials on record.

12. I cannot lose sight of the fact that final report was laid against as many as 228 persons. The status report filed by the Deputy Superintendent of Police, Sivagangai Sub Division, Sivagangai, itself states as follows:-



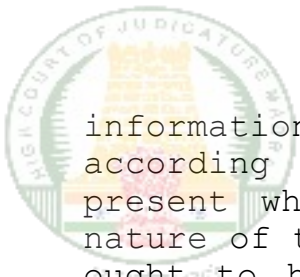
"I submit that admittedly, there were some confusions in identifying and including the real Accused, since in the Petitioner's village, there are several persons available in one name. For example, there are more than 5 persons available in the village in the name of Vairavan. In fact, we have included the names which were given by the Village Administrative Officer and based on the statement of the arrested accused. Therefore, there was some erroneous inclusion of the names in the Charge Sheet due to the above said confusion."

13. The learned counsel appearing for the petitioners frankly and fairly admitted that the local villagers felt aggrieved by the rejection of their request for celebrating the birthday festival of the revered community figure. It is also admitted that they had staged a Dharna. But then they would claim that their protest was entirely peaceful. According to the petitioners, it was the provocative conduct of the local Sub Inspector that triggered the entire incident. Without any justification, the police had resorted to lathi charge. The demonstrators were brutally lathi charged and driven away. In fact many of them who had come in their two wheelers, abandoned them and ran away. Of course the incident was exploited by some antisocial elements who caused damage to public property and indulged in stone throwing. Instead of identifying the actual accused, the police obtained a complaint from the local Village Administrative Officer who indiscriminately implicated everyone including the prominent leaders of the community.

14. The petitioners' counsel pointed out that the list of accused included not only some who were already dead and also who were abroad during the relevant time. They also contended that the police have deliberately suppressed the counter complaint given against them. If the prosecution would claim that a public transport bus and police station was damaged and the value of damage was Rs.1,28,000/-, the loss suffered by the villagers was 20 times more. It is not as if the police alone suffered. The villagers had suffered in far greater measure. The petitioners' counsel would therefore want me to quash the proceedings to secure the ends of justice.

15. There is considerable force in the contention of the petitioners' counsel. That is why, after undertaking further investigation, pursuant to the orders of this Court, as many as 110 persons came to be deleted.

16. The core contention of the prosecution is that the accused attacked the police station. This is said to have taken place at about 10.45 p.m. on 23.05.2016. But strangely and interestingly the First Information Report is based on the



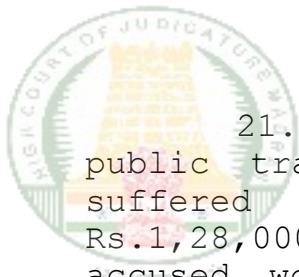
information lodged by the Village Administrative Officer. Even according to the First Information Report, police personnel were present when the occurrence took place. Therefore, in the very nature of things, somebody who is directly acquainted with the facts ought to have given the complaint. That has not happened in this case. The Village Administrative Officer talks about the rejection of the request for celebrating the community leader's festival by the Deputy Superintendent of Police. There is absolutely no explanation for the delay in lodging the First Information Report. Of course the delay in lodging information or registering the First Information Report cannot be a ground for quashing the proceedings. But the case on hand is entirely different. The prosecution case is that the police station came under attack. Of course this Court is not made aware as to whether any CCTV was installed in the station campus. But then obviously the police persons would be having their mobile phones. They could have very easily taken photographs of the persons who had attacked the police station. Instead of registering the First Information Report immediately after the occurrence had taken place, the police had waited for a report to be lodged by the local Village Administrative Officer.

17. It is the association of the local Village Administrative Officer that triggers considerable doubt in the mind of this Court. The local Village Administrative Officer speaks of 31 persons in the First Information Report. But the list swells to 228 persons in his statement recorded under Section 161 of Cr.P.C. The allegations are omni bus in nature and the accused have been bracketed together. It is not known as to how the Village Administrative Officer was sure of the involvement of as many as 228 persons in the occurrence.

18. From the subsequent events, it is obvious that the Village Administrative Officer had simply picked and chosen the names from the voters list or some other list maintained by him. He also implicated the prominent leaders of the community. Except the statement of the Village Administrative Officer, there is no credible material against the persons implicated in this case.

19. The issue received wide media attention. The police action had also been photographed. Nothing prevented the prosecution from taking photographs or video of the occurrence. A simple mobile phone is capable of taking videos. When the media is able to present even live coverage of riots, it is strange that when the police station itself is said to have come under attack, the police persons are not able to place credible materials for the consideration of this Court.

20. In a case of this nature, where a very large number of people have been implicated enmass, it is most unsafe to go by the oral testimony of the local Village Administrative Officer.



21. At the same time, I cannot lose sight of the fact that a public transport bus was damaged and the police station also suffered a damage. The total loss has been estimated at Rs.1,28,000/-. The petitioners' counsel submitted that the first accused would take a Demand Draft for a sum of Rs.1,28,000/- favouring the District Collector, Sivagangai, who shall in turn pass on a sum of Rs.1,07,000/- to the concerned transport corporation and a sum of Rs.21,000/- to the concerned police station towards reparation.

22. The local panchayats have passed resolutions expressing their regret for the entire occurrence. They have conveyed their apologies in writing. I do note that as many as 8 persons have suffered injuries. Thiru.Balamurugan, Deputy Superintendent of Police, Sivagangai had suffered grievous injuries and Thiru.Mohan, Inspector of Police, Sivagangai Town police station, had sustained fracture in his right hand. They also ought to be compensated. They had suffered injuries when discharging their duty. Therefore, the Director General of Police(Law and Order), Chennai, is requested to acknowledge the same and also ensure that the injured personnel are appropriately compensated. This shall be done without any delay, in any event within a period of eight weeks from the date of receipt of a copy of this order.

23. The occurrence took place way back in May 2016. We are now in May 2020. The case is still at the committal stage. When the Sessions Court takes up the matter, there will be as many as 117 persons standing as accused. They will have to be identified. A mere look at the various 161 Cr.P.C. statements indicate that they are in a stereo typed format. Absolutely no purpose will be served in prosecuting a case of this nature. It is obvious that the local Village Administrative Officer has supplied the names for being implicated by the prosecution. Except the statement of the Village Administrative Officer, there is absolutely no other credible material against the petitioners herein. As I already noted, the villagers have also suffered. Even the First Information Report itself would indicate that the accused fled the spot after leaving their two wheelers which are 35 in number. This is a clear 'give away'. This probablises the claim of the petitioners' counsel that when the petitioners had assembled before the station, they were lathi charged and driven away. Otherwise, there is no need for the Village Administrative Officer to make a statement that they had fled leaving behind their two wheelers. This also reinforces the contention of the petitioners' counsel that their counter complaint has been suppressed.

24. For the foregoing reasons, I am fully satisfied that continuance of the impugned prosecution is not going to serve any purpose. It will be colossal waste of judicial time. In this view of the matter, the impugned proceedings stand quashed. The criminal



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CRL.O.P.(MD)NO.22633 OF 2016

original petitions stand allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

pmu

To:

- 1.The Director General of Police (Law and Order)
Chennai.
2. The Judicial Magistrate No.I,
Sivagangai.
3. The Inspector of Police,
Madhagupatti police station,
Sivagangai District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P.(MD)Nos. 22633 of 2016, 17367 of 2018
& 6300 of 2019 and
21.05.2020

SMA/02/07/2020/10P/5C