



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.08.2021

Pronounced on : 04.10.2021

CORAM:

THE HONOURABLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD) No.11296 of 2021

and Crl.M.P(MD)No.5767,5769 of 2021

WEB COPY

- 1.Muthuraja
- 2.Karna Prasath
- 3.Selvakumar
- 4.Sakthi Sudalai
- 5.Siva
- 6.Iyappan
- 7.Sudalai
- 8.Suthan
- 9.Praveen
- 10.Murugan
- 11.Thamaraikannan
- 12.Kottai Karuppannan

... Petitioners/Accused No.1 to 12
Vs.

- 1.The State Represented by
The Inspector of Police,
V.K.Pudur Police Station,
Tirunelveli District.
(Crime No.181 of 2019)

... 1st Respondent/Complainant

2. Uthayasuriyan

... Second respondent/Complainant

PRAYER: Criminal Original Peititon is filed under Section 482 of Cr.P.C to call for the impugned Final Report in S.T.C.No.1332 of 2019 on the file of the Learned Judicial Magistrate, Alangulam, Tirunelveli District in connection with Crime No.181 of 2019 on the file of the Inspector of Police, V.K. Pudur Police Station, Tirunelveli District and quash the same as illegal and devoid of merits.

For Petitioners : Mr.J.Sankara Pandian

For R1 : Mr.K.Sanjai Gandhi

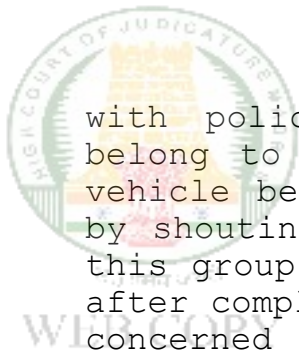
Government Advocate(Crl side)

O R D E R

This petition is filed seeking quashment of the impugned Final Report in S.T.C.No.1332 of 2019 on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District in connection with Crime No.181 of 2019 on the file of the Inspector of Police, V.K. Pudur Police Station, Tirunelveli District.

2. The case of the prosecution in brief: On 05.10.2019, at about 05.00 p.m when the defacto complaint was on patrol duty along

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with police party near Muthukrishnapuri bus stop, the students belong to Athipoothu Sardhar Raja Engineering College came in a vehicle bearing Registration No.76 AA 9977 indulged in group clash by shouting each other assaulting, fighting and etc. So because of this group clash, the case was registered under Section 160 IPC and after completing the investigation, final report was laid before the concerned court, which was also taken cognizance in S.T.C.No.1332 of 2019 on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District. Seeking quashment of the final report, this petition is filed mainly on the ground that even as per the allegations made in the First Information Report and final report and on the face of it the ingredients of Section 160 IPC are not attracted.

3. For that purpose, the petitioner would rely upon the judgment of this Court in Crl.O.P(MD)No.17260 of 2018, wherein a similar circumstance has arisen. This Court after going through the judgment of this Court in **P.Rami Reddy and others Vs. Chintha Chinna Narasi Reddy** reported in **AIR 1938 Madras 924**, which was followed in **Pushpa and others Vs. Ravi and Others** reported in **2017 Criminal Law Journal 4747** and subsequently in **Gadadhar Guru and another Vs. State of Orissa, opposite Party** reported in **1989 Criminal Law Journal 2080** has come to the finding that the merely because two groups involved in fighting that will not lead to an impression that it caused disturbance to the public peace. There is no question of automatic presumption of breach of peace.

4. Section 159 IPC reads as under:

159.Affray —When two or more persons, by fighting in a public place, disturb the public peace, they are said to "**commit an affray**".

If Section 159 I.P.C read in the light of the judgment cited supra, it is clear that ingredients of Section 160 IPC will not attract into the allegations made against the petitioner.

5. The facts and circumstances show that the petitioners were studying in a private college. During transport in a bus which belongs to the College, it appears that trouble arose between two groups of students and they alighted from the bus in the place of occurrence and continued their fight and tried to assault with each other with hands. The proper course that ought to have been taken by police authorities is to register the case against who indulged in assaulting but instead of doing that case under Section 160 IPC has been registered and final report has also been filed. Here, absolutely there is no material to show that because of the fight between two groups of students public peace was affected. In the absence of any such specific allegation of breach of peace the offence under Section 160 IPC is not attracted. Therefore, I am of the considered view that the final report in S.T.C.No.1332 of



2019 on the file of the Learned Judicial Magistrate, Alangulam, Tirunelveli District is liable to be quashed. Accordingly, the same is quashed.

6.In fine, this petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

CM-VR

To,

- 1.The Judicial Magistrate,
Alangulam, Tirunelveli District.
- 2.The State Represented by
The Inspector of Police,
V.K.Pudur Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD) No.11296 of 2021
and Crl.M.P(MD) Nos.5767,5769 of 2021
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