



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 06.07.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.20244 of 2018

and

Crl.MP(MD)Nos.9338 & 9339 of 2018

WEB COPY

1.V.Maria Selvaraj

2.J,Ajith

3.S.Valsalam

4.S.Alexander

5.C.John Hitler

6.V.George Britto

7.Joesphin Raj

8.S.Thomas

9.A.Syllus

10.S.Yesudhas

11.A.Mathiyas

12.M.James

13.R.Alwin Raj

14.C.Jesus

15.T.Thanislal

16.P.Leons

17.P.Rabi Dhas

18.A.Viyakappan

19.T.Jeen Paul

20.V.Amaldhas

21.A.Justin Xavier

22.V.Mariya Pushpam

23.D.Mariya Selvi

... Petitioners/Accused Nos.1 to 23

24.R.Rejinal

25.M.Latha

26.V.Reethammal

27.M.Siamala

28.D.Rajam

29.V.Mariya Sarojam

30.W.Santhana Mary

... Petitioners/Accused Nos.24 to 30

Vs.

1.State Represented by

The Inspector of Police,

Puthukadai Police Station,

Kanyakumari District.

(Crime No.151/2011)

... Respondent/Complainant

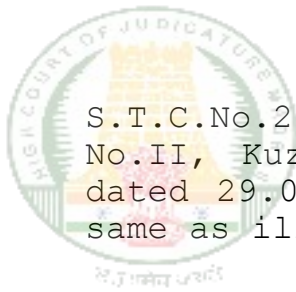
2.Mr.S.Karunakaran

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482

Cr.P.C. to call for the records pertaining to the Charge Sheet in

<https://hcservices.ecourts.gov.in/hcservices/>



S.T.C.No.240 of 2015 pending before the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District in Crime No.151 of 2011 dated 29.04.2011 on the file of the Respondent No.1 and quash the same as illegal as against the petitioners alone.

For Petitioners : Mr.T.Lajapathi Roy
For R1 : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor.

ORDER

This petition has been filed to quash the Charge Sheet in S.T.C.No.240 of 2015 pending before the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District.

2. The case of the prosecution is that on 29.04.2011, at about 11.20 a.m, the petitioners along with other accused persons, gathered unlawfully and restrained the respondent to exercising the duty of inspecting the place.

3. Based upon a complaint given by the second respondent herein, a case in Crime No.151 of 2011 for the offences punishable under Sections 147, 353 and 188 of IPC r/w 3 (A) (i) (ii) TN Nuisance Act, 1989, was registered and during the course of investigation statement of the witnesses has been recorded and materials collected and finally final report has been filed before the learned Judicial Magistrate No.2, Kuzhithurai, which is also taken on file in S.T.C.No.240 of 2015.

4. Seeking quashment of this criminal case, this petition is filed mainly on the ground that the offence under Section 188 is non-cognizable offence and as per the judgment reported in **2018 2 LW (crl) 606 [Jeevanandham and other Vs. Inspector of Police, Sivakasi Town Police Station, Virudhunagar District]**, dated 20.09.2018 the cognizance by police is barred.

5. Similarly, the other offence that has been made in the final report are also not attracted any of the ingredients to the facts and circumstances of the case.

6. Heard both sides.

7. At the time of hearing, the learned counsel for the petitioners brought to the notice of this Court that in respect of co-accused namely, Mariya Leela, filed Crl.OP(MD)No.13162 of 2019 and by the order dated 23.09.2019, the proceedings were quashed. A copy of the order is also circulated before this Court. Since the case has been ended in quash insofar as the co-accused is concerned, the same, shall be extended to these petitioners also. Because, the allegations, that have been made against all the petitioners are one and the same. So, continuation of the proceedings against these



petitioners before the Trial Court is not proper. So, on this ground, this petition is liable to be allowed.

8. Accordingly, this Criminal Original Petition is allowed and proceedings in S.T.C.No.240 of 2015, pending before the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District, is quashed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dss

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 Judicial Magistrate No.II, Kuzhithurai,
Kanyakumari District.

2.The Inspector of Police,
Puthukadai Police Station,
Kanyakumari District.

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

+1 CC to M/s.T.LAJAPATHY ROY, Advocate (SR-21591[F] dated
07/07/2021)

Crl.O.P. (MD)No.20244 of 2018

06.07.2021

RD(20.07.2021) 3P 5C