



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K. ILANTHIRAIYAN**

CrI.O.P.(MD).No.8277 of 2022

and

CrI.M.P(MD).No.5593 of 2022

1.Fatima(Wrongly mentioned as
Fathima Babu instead of Fatima in F.I.R.)

2.I.Jeevan Kumar ...Petitioners/Accused No.10 & 11

Vs.

1.State Represented by,
The Inspector of Police,
Thoothukudi SIPCOT Police Station,
Thoothukudi District.
(Crime No.353 of 2010) ...Respondent No.1/Complainant

2.Balasubramanian
Village Administration Officer
Melavittan
Thoothukudi - 628006. ...Respondent No.2/
Defacto Complainant

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the entire records pertaining to the Impugned First Information Report in Crime No.353 of 2010 on the file of Respondent No-1 Police Station and quash the same.

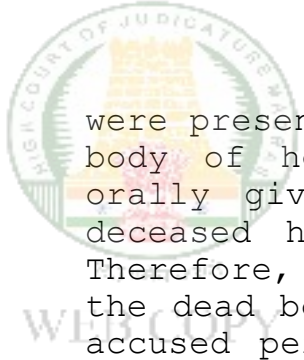
For Petitioners : Mr.Henri Tiphagne

For Respondents : Mr.B.Thanga Aravindh
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition has been filed to quash the impugned First Information Report in Crime No.353 of 2010 on the file of the first respondent as against the petitioners.

2.The case of the prosecution is that the defacto complainant lodged the complaint alleging that on 22.09.2010, the first accused was observing fast at the District Collector Office and demanded for CBCID investigation in connection with murder of her husband, namely, Thirumurugan. Further alleged that all the accused persons

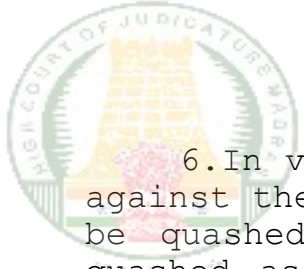


were present along with the first accused and refused to receive the body of her husband. Nevertheless, the District Collector had orally given an assurance to take action for the death of the deceased husband. But, they refused to receive the dead body. Therefore, the officials, after 10 days from the date of preserving the dead body, were forced to bury the dead body. Hence, all the accused persons scolded the officials in filthy language and also threatened them with dire consequences. Further, alleged that they prevented the Government officials from discharging their official duty. Hence the FIR registered by the first respondent in Crime No. 353 of 2010 for the offences under Sections 143, 341, 294(b), 353 and 506(i) of IPC as against the petitioners and others.

3. The petitioners are arraigned as A10 and A11. Even according to the case of the prosecution, there is no averment as against the petitioners. The FIR is pending from 22.09.2010 and even till today the first respondent failed to complete the investigation and did not file any final report so far. It is true that there was agitation by the accused persons to receive the dead body since they sought for CBCID investigation on the death of the deceased husband of the first accused. Therefore, they have only raised a legitimate public issue and some of the accused persons belonged to political party and as such, the FIR registered as against all the accused persons.

4. Admittedly, all the accused persons have not indulged in the act of any violence. They agitate only for the reason that without informing to them, the dead body of the deceased was buried by the officials. That apart, they demanded only transfer of investigation to the file of the CBCID and also seeking compensation to the deceased family. There is no prohibition for conducting indoor meetings. Therefore, the registration of FIR is nothing but violating the petitioners' fundamental rights guaranteed under Article 19 (1)(a) of the Constitution of India. The first respondent by registering the FIR had taken away the freedom of speech and expression of general public. Therefore, the continuance of investigation in Crime No. 337 of 2010 is nothing but, clear abuse of process of law.

5. Even assuming that all the accused persons indulged in the alleged occurrence as per the averments made in the FIR, no offence is made out under Sections 143, 341, 294(b), 353 and 506(i) of IPC. To attract these offences, the accused persons should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging their official duty. Admittedly, all the accused persons have conducted their demonstration in a peaceful manner and no untoward incident taken place during the protest. Therefore, the FIR cannot be sustained as against the petitioners and the facts of this case will clearly fall under the dictum laid down in the case of **State of Haryana and others Vs. Bhajan Lal and others** reported in **1992 Supplement 1 SCC 335**.



6. In view of the above, the impugned FIR cannot be sustained as against the petitioners and also other accused persons and liable to be quashed. Accordingly, the FIR in Crime No. 353 of 2010 is quashed as against the petitioners and also other accused persons and the criminal original petition is allowed. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

lr/ps

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 Inspector of Police,
Thoothukudi SIPCOT Police Station,
Thoothukudi District.
2. The Village Administration Officer
Melavittan
Thoothukudi - 628006.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.O.P. (MD) .No.8277 of 2022
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MGJ(27.05.2022) 3P 4C