



Crl.O.P(MD)Nos.1079 & 1094 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.08.2024**

CORAM

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.OP(MD).Nos.1079 & 1094 of 2023

and

CRL.MP(MD)Nos.988 & 992 of 2023

CRL OP(MD).No.1079 of 2023

1. Viswanathapandian @ Viswanatha Raja
2. Selvam
3. Vasamuthu
4. Arumugavel @ Apple
5. Kudiyarasu
6. Karuppasamy
7. Mariselvam
8. Chinnapandi @ Vijayapandi
9. Periyapandi @ Marimuthu

... Petitioners

Vs

1. The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.
(Crime No. 26 of 2022)

2. S.Ramesh Kumar

... Respondents



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1. Kulanthairaja
2. Vasamuthu
3. Selvam
4. Arumugavel @ Apple
5. Mariselvam
6. Muthupandi
7. Kudiyarasu
8. Chinna Udaiyar @ Udaiyar
9. Chinnapandi @ Vijayapandi
10. Periyapandi @ Marimuthu
11. Narasimman
12. Karuthapandi
13. Udaiyar @ Udaiyarpandi
14. Ayyanar
15. Sundarraja @ Sundarraja Pandian
16. Ayyadurai

... Petitioners

Vs

1. The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.
(Crime No.28/2022)

2. S.Ramesh Kumar

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the impugned FIR in Crime Nos. 26 & 28 of 2022 on the file of the first respondent police and quash the same as illegal in so far as the petitioners are concerned.



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(In both petitions)

For Petitioners : Mr.Suthakaran.I,

For R-1 : Mr.M.Aasha
Government Advocate (Crl. Side)

COMMON ORDER

These Criminal Original Petitions are filed to quash the First Information Report in Crime Nos.26 and 28 of 2022 pending on the file of the first respondent.

2. On a perusal of the First Information report, it can be seen that the complaint is lodged by the Sub Inspector of Police, who was on duty at the election office during the Panchayat Election. The complaint states that on the date and time, the accused herein, formed an unlawful assembly and also conducted a dharna at the entrance, thereby, not permitting him to perform his official duty, as well as, it resulted in the entrance of the office being blocked by them. Only after the higher officials pasted a notice in the notice board, the accused had left the place. Therefore, on the strength of the said complaint, a case is registered in Crime Nos.26 & 28 of 2022 for the offence under Sections



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143, 188, 341, 269, 171(C), 171(F) of IPC and Section 132 of Representation of People Act, 1951.

3. The very same matter was considered by the Division Bench with reference to the election dispute to which I am a party and by judgment dated 05.08.2022 in W.P.(MD).No.3131 of 2022, it has been categorically held that the action of the Election Officer in cancelling the election, after the announcement was illegal. As a matter of fact, specific observations are made in paragraph No.14 about the present criminal case also. Merely because that no valid candidate could be put up by the political parties, including the ruling political party, the Election officer attempted to recall the election which is openly declared by him. Only under the said circumstances, there was a commotion in the office and pursuant to which the case is registered. It can be seen that for an offence under Section 188 of IPC, no FIR can be registered and the same can be taken only by a private complaint. As far as the other offences are concerned, it is clear that it was only the Election Officer and the other officials, who are at fault. The petitioner and his supporters were not at fault, certainly, the other offences are also not made out. For a lawful



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constitutional right, if a dharna is conducted, the same cannot be said to be an unlawful assembly or for commission of other offences. In that view of the matter and in view of the Division Bench judgment, there will be no useful purpose in continuing the investigation. In view thereof, the First Information Reports stands quashed.

4. Accordingly, these Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

16.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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1. The Inspector of Police,
Kadambur Police Station,
Thoothukudi District.

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

D.BHARATHA CHAKRAVARTHY,J.



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Order made in
CRL OP(MD).Nos.1079 & 1094 of 2023

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