

Metha @ Sivasankara Metha vs The State Of Tamil Nadu Represented By on 13 December, 2024

Author: M.Nirmal Kumar

Bench: M.Nirmal Kumar

CrL.O.P.(MD)Nos.22029 &

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrL.O.P.(MD)Nos.22029 & 22030 of 2024
and
CrL.M.P(MD)Nos.13666 & 13667 of 2024

CrL.O.P(MD)No.22029 of 2024:

Metha @ Sivasankara Metha

.. Peti
Accus

Vs.

1.The State of Tamil Nadu represented by
The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.
(Crime No.252 of 2024)

.. 1st Re
Compla

2.Selvam

.. 2nd Resp
Defacto Compla

PRAYER : Criminal Original Petition filed under Section 528 of BNSS
to call for the records pertaining to the case registered in impugn
Information Report in Crime No.252 of 2024 on the file of the first
respondent Police and Quash the same as illegal.

<https://www.mhc.tn.gov.in/judis>

Crl.O.P.(MD)Nos.22029

For Petitioner : Mr.B.Arun
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for

Crl.O.P(MD)No.22030 of 2024:

Metha @ Sivasankara Metha

.. Peti
Accus

Vs.

1.The State of Tamil Nadu represented by
The Inspector of Police,
Aruppukottai Town Police Station,
Virudhunagar District.
(Crime No.253 of 2024)

.. 1st Re
Compla

2.Subbaraj

.. 2nd Resp
Defacto Compla

PRAYER : Criminal Original Petition filed under Section 528 of BNSS
to call for the records pertaining to the case registered in impugn
Information Report in Crime No.253 of 2024 on the file of the first
respondent Police and Quash the same as illegal.

For Petitioner : Mr.B.Arun
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for

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<https://www.mhc.tn.gov.in/judis>

Crl.O.P.(MD)No

COMMON ORDER

These Criminal Original Petitions have been filed to quash the FIR registered in Crime Nos.252 and 253 of 2024 on the file of the first respondent Police.

2. The case projected against the petitioner is that there are totally 16 accused in both the cases. On 03.09.2024, the respondent Police were on patrol duty they found that the petitioners were showing protest on the murder of one Kalikumar whose body was kept in the mortuary of the Government Hospital, Aruppukottai. The petitioner and the villagers have assembled before the mortuary and raised slogans accusing the Police for not protecting the life of Kalikumar and the manner in which investigation is being conducted. Despite the Police had asked them to disburse, they resisted and thereafter all the 16 named persons and 100 of them had gone to the MS road junction and formed into an unlawful assembly and raised slogan and abused the Police, caused disturbance to the public, vehicle transport and also caused damage to the public property. Hence the case in Crime No.252 of 2024 was registered for the incident that had taken place before the mortuary of the Government Hospital and Crime No.253 <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)Nos.22029 & 22030 of 2024 of 2024 was registered for the incident that taken place at the MS Road Junction. Two cases have been filed against them.

3. The contention of the petitioner is that one Kalikumar was brutally murdered. Despite the villagers had lodged a complaint that there is a life threat to him, the Police had not taken any action and hence their villager Kalikumar murdered. Further the Police had not taken any immediate action for arresting the assailant who had murdered the villager. Finding that the Police are not showing interest in the investigation, the villagers got a feeling that the Police not acted immediately and further apprehending that post-mortem would not be properly conducted and thereby the investigation itself would get affected and hence the villagers having the apprehension assembled and questioned the manner in which the investigation is being conducted by the respondent Police. Showing protest and raising objection cannot be stated to be a unlawful assembly or causing disturbance to the public. No public has lodged complaint against any one that they were not allowed to move and there was no complaint of any obstruction to the traffic. In such circumstances, registration of FIR is not justifiable. He further submitted that these cases have been registered not only against the petitioner but also against the villagers. Whenever <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)Nos.22029 & 22030 of 2024 they apply for any education, job and passport and for other requirements, it will affect them. These cases have been registered on 03.09.2024 against the petitioner and thereafter the cases were put on hold. The petitioner had completed his law degree in Visakha Law College, Visakhapatnam and thereafter by citing the above cases the petitioner is unable to get clearance from the Police and his enrolment is stalled. The petitioner is the first generation to hold a degree from his family and his dream of getting enrolment and practicing as a lawyer is now shattered. Hence, filed this petition.

4. The learned Additional Public Prosecutor submitted that one Kalikumar was murdered. After his murder his body was kept in mortuary for conducting inquest and post-mortem. The petitioner and other villagers staged protest in front of the mortuary of the Government Hospital, raised slogans accusing the Police for not protecting the life of Kalikumar and the manner in which investigation is being conducted. Further the situation has become so combative affecting the welfare and safety of other patients in the hospital. The Police had requested the protestors to disburse but they failed to

do so. Hence the case has been registered for their Dharna held inside the hospital. Later 16 named <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)Nos.22029 & 22030 of 2024 accused and around 100 villagers had gone out from the Hospital and conducted a road roko affecting the public and the transport. Hence, one FIR was registered for the incident which had taken place inside the hospital and the second FIR registered for the incident that had taken place in the public road. 2 FIRs have been registered against the petitioner and 15 others. Investigation is in progress.

5. Considering the submission and perusal of materials, it is seen that one Kalikumar was found murdered and his body was kept in the mortuary. The petitioner and the other villagers got emotional and raised protest. On coming to know about the apprehension that the post-mortem would not be conducted in the manner required and the investigation also was not conducted immediately and the Police had not taken immediate action to apprehend the assailants. The murder was so brutal and the villagers got enraged and joined the protest which is the normal conduct of the relatives and the villagers. Showing protest on emotional ground cannot be presumed as unlawful assembly and obstructing the public movement. In this case, there is nothing to show that there was any prohibitory order. In both the cases, the defacto complainant is a Police personal and no public had lodged any complaint that they were not <https://www.mhc.tn.gov.in/judis> CrI.O.P.(MD)Nos.22029 & 22030 of 2024 permitted to proceed in the direction as intended and there is no complaint about any traffic blockade. It is also seen that after registration of FIR nothing has been done and further in this case it is natural that due to emotional break down such protests are done. In this case no casualty of person or material had been reported.

6. This Court is inclined to quash the FIR in Crime Nos.252 and 253 of 2024 against the petitioner and 15 others and against all the accused. This Court directs the Bar Council of Tamil and Puducherry to consider the petitioner's application for enrolling him as Advocate if he is otherwise qualified and eligible.

7. With the above directions, the Criminal Original Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
MGA
Note: Issue order copy on 18.12.2024.
To
1.The Inspector of Police,
Palaiyanur Police Station,
Sivagangai District.

<https://www.mhc.tn.gov.in/judis>

CrI.O.P. (MD)Nos.22029 & 22

M.NIRMAL KUMAR,J.

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

CrI.O.P.(MD)Nos.22029 & 22030 of 2024
and
CrI.M.P(MD)Nos.13666 & 13667 of 2024

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