



புதுச்சேரி மாநில அரசிதழ்

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PART - I

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EXTRAORDINAIRE

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IN THE COURT OF SUBDIVISIONAL MAGISTRATE AT KARAIKAL

M.C. No. 256/2019, I.R. No. 54/2019 of the
T.R. Pattinam Police Station, dated 08-04-2019.

Endt: 3363/DCK/A3/2019 of the
Collector-cum-District Magistrate, dated 22-04-2019

Station House Officer,
T.R.Pattinam Police Station.

. . . Petitioner

Vive @ Vickraman,
S/o. Jaganathan @ Dhanabal,
No. 132, Mariamman Koil Street,
Polagam, T.R.Pattinam.

. . . Counter Petitioner

No. 254, 5th Cross,
Nethaji Nagar,
Karaikal.

Prohibitory Orders Under Section 144 (i), (ii) and (iii) of Cr.PC.

Whereas, one F.I.R was filed by the Station House Officer, T.R.Pattinam Police Station vide I.R. No. 54/2019 under section 144 (i), (ii) and (iii) Cr.PC. in the Court of District Magistrate-cum-Collector, Karaikal and hence, forwarded to this Court vide Endorsement No. 3363/DCK/A3/2019, special report filed by the Station House Officer to describe the information laid under section 144 of Cr.PC. goes on

to narrate the criminal activities of the accused namely, Vive @ Vickraman, who has been reportedly indulging in serious offences like organized murders, extortion, hurt, criminal intimidation and thereby became a perennial source of threat to the community and disturbance to the public tranquility.

2. Whereas, the information laid by the Station House Officer, T.R.Pattinam Police Station, Karaikal, under section 144 of Cr.PC. has listed out the record of previous cases registered against the accused as detailed below:-

(i) Cr.No. 322/15 under sections 147, 148, 341, 342 and 294(b), 506(II), 302 r/w 3(1) of PPDT Act of Sirkali Police Station, dated 26-04-2015.

The counter petitioner along with Ezhilarasi had hired the hooligans for committing the murder as revenge for the murder of her husband that the counter petitioner along with Ezhilarasi's brother Murugavel, her brother's son Raj @ Rajagopal, Sethappa and others (hooligans of Chennai) had committed murder of one Vinotha, w/o. Ramu @ Radhakrishnan. During the course of investigation, the counter petitioner and others were arrested. This case was charge sheeted on 15-07-2015. This case is pending trial.

(ii) Cr.No. 01/2017 under sections 147, 148, 332, 395, 307, 448, 302, 120(b), 427 IPC r/w 149 IPC and 3 and 4 of Explosive Substances Act, 1908 of Neravy Police Station, Karaikal.

The counter petitioner has played vital role to hire the hooligans from Trichy for committing the murder as revenge for the murder of Ezhilarasi's husband Ramu @ Radhakrishnan that some unknown culprits about 7 members had joined together formed themselves into an unlawful assembly, armed with deadly weapons and country made bombs in prosecution of common object hurled the country made bomb at front mirror of the car bearing Registration No. PY-02-P-6789 extorted the carbine gun from the complainant who is the gunman of the deceased and criminally trespassed into the construction site and assaulted the deceased Ex-MLA Thiru VMC Sivakumar by using lethal weapons by causing cut injuries on his body and head, and thereby committed murder of him due to previous enmity. During the course of investigation, the counter petitioner and others were arrested. The case was charge sheeted on 02-05-2018 *vide* charge sheet No. 28/2018, PRC No. 22/2018 and pending trial before the Hon'ble District Session's Court, Karaikal.

(iii) Cr.No. 266/11 under sections 147, 148, 307, 324, 323, 354 and 506(II) r/w 149 IPC, dated 07-08-2011 of Town Police Station, Karaikal.

The counter petitioner along with Ezhilarasi and her husband Ramu @ Radhakrishnan, Suresh, Babu, Kandipan and Tahmizh had in prosecution of their common object formed themselves into an unlawful assembly assaulted the complainant Vinotha w/o. Ramu @ Radhakrishnan following which, on 07-08-2011 at 23.456 hrs, a complaint was registered. During the course of investigation, the counter petitioner and other accused concerned in this case were arrested. This case was charge sheeted on 31-12-2012 *vide* charge sheet No. 216/2011 *vide* SC No. 03/2016 and the case was ended in Acquittal under section 235 (1) Cr.PC., dated 02-08-2018 by the Hon'ble District Session's Court, Karaikal.

(iv) Cr.No. 02/2017 under sections 336, 427 r/w 34 IPC and 3 and 4 of Explosive Substances Act, 1908, dated 03-01-2017 of T.R.Pattinam, Karaikal.

Two unknown male persons have in furtherance of their common intention so as to endanger the life and personal safety of the people had hurled country made bombs at the gate of the Ganesh Bar at Polagam, T.R.Pattinam and thereby caused damages to the bar. During the course of investigation, the counter petitioner was arrested as he had associated along with the other accused involved in this case to hurled country made bomb after the completion of murder of VMC Sivakumar on 03-01-2017 at 13.15 hours. The accused Ezhilarasi and her associates were arrested and they were released on bail by the Hon'ble Court. The case was charge sheeted on 18-10-2017 *vide* charge sheet No. 18/2017, PRC No. 6/2017 and pending trial before the Hon'ble Court, Karaikal.

(v) Cr.No. 104/2011, under sections 147, 448, 323 and 506 IPC r/w 149 IPC, dated 07-07-2011 of T.R.Pattinam Police Station, Karaikal.

The counter petitioner along with other accused persons namely, Suresh, Kandipan, Babu have in prosecution of their common object formed themselves into an unlawful assembly criminally trespassed into the house of the complainant Vinotha, w/o. Ramu @ Radhakrishnan of T.R. Pattinam, Karaikal, assaulted her by their hands and also threatened her on 07-07-2011 at 15.45 hours. During the course of investigation, the counter petitioner was arrested in this case. Later, this case was charged on 19-07-2011 *vide* CC. No. 921/2011 and is pending trial before the Hon'ble JM-II Court, Karaikal.

(vi) On 30-06-2017 a case under section 3 (2) of the Puducherry Prevention of Anti-Social Activities Act, 2008 was registered against the counter petitioner and his gang leader Ezhilarasi @ Meera and hence, the District Magistrate, Karaikal, had issued a detention order *vide* No. 6051/DM/RO/D2/PPASAA/2017, dated 06-07-2017 under the provisions of Puducherry Prevention of Anti-Social Activities Act, 2008 (Act No. 10 of 2010), following which the counter petitioner was detained under the provisions of the said Act, as there was serious apprehension of danger to the life and property of the citizens and disturbance to the public peace and order. The counter petitioner had hired three different hooligan groups from Tamil Nadu for committing the above three murders. He had also planned to commit murder of the other accused persons who are involved in the commission of Ezhilarasi's second husband namely, Ramu @ Radhakrishnan's murder.

Other Cases of Criminal Conspiracy, Hurt and Criminal Tresspass

(vii) Cr.No. 21/2018 under section 120(B) r/w 34. IPC and 27(1) of Arms Act, 1959 @ 1230(B) 150, 212 @ 212, 115150, 120(B), 148, r/w. 149(342) IPC-2 counts and 27(1) of Arms Act. 1959 of D.Nagar Police Station, Puducherry.

(viii) Cr.No. 73/2009 under sections 147, 148, 341, 323, 324, r/w 149 IPC, dated 15-05-2009 of the T.R.Pattinam Police Station, Karaikal – a hurt case filed based on complaint filed by one N S K Kabilan of T.R.Pattinam, Karaikal – charge sheeted and case acquitted.

(ix) Cr.No. 172/2012 under sections 448, 294, 506(ii) IPC of the T.R.Pattinam Police Station – a Trespassing case threat on dire consequences of life, abuse with filthy language – case filed based on complaint filed by one Vinodha, w/o. Ramu @ Radha Krishnan – charge sheeted and case under trail in the Hon'ble Court of JM-II, Karaikal.

3. The petitioner being the Station House Officer of T.R.Pattinam Police Station, Karaikal, has submitted that the counter petitioner has formed a gang of rowdies and is bent upon indulging in criminal activities such as murders, extortion, hurt, criminal intimidation, Arms Act violation and disturbance to the public tranquility and order which have created panic in the minds of local inhabitants and the business community living under the jurisdiction of the T.R Pattinam Police Station limit. He is associated with the criminal activities of one Ezhilarasi who in turn is operating in T.R.Pattinam and Neravy adjoining areas and has become a source of terror among the public. The general public of the above localities are afraid of them and they do not come forward to lodge complaint against the counter petitioner due to fear of retaliation and revenge. The prosecution witnesses are having fear to depose evidence against him and hence, they do not volunteer.

4. The petitioner further submitted that the counter petitioner had invariably used deadly weapons in commission of the above crimes, thereby, the general public were affected at large and spent sleepless nights in panic and fear of death, extortion and hurt. The petitioner further submits that the counter petitioner is a close associate of the gang leader Ezhilarasi and leads a team by hiring criminals from the neighboring State *i.e.*, Tamil Nadu to commit grave offences. In general, the public fear of their life posed by this anti-social element along with his associates. Taking advantage of fears of public, the counter petitioner is going ahead in his unlawful acts which are detrimental to the public peace and tranquility which are likely to create panic and sense of insecurity in the society.

5. The petitioner further submitted that the Police Intelligence reveals that counter petitioner has planned to extort money from merchants, selected targets of people to have accumulated money through illegal means with the aid of her active associates which needs to be clinched out at the very beginning itself.

6. Whereas, the counter petitioner has been reported as a notorious criminal who does not bother on discipline and morale of society, ignorant of the Police warnings and he is reportedly heading a gang of hooligans to move around in the view of public to inflict fear in minds of general public, merchants and people of business class and others. He moves around with his henchmen as a gang leader. It has been reported by the Station House Officer, T.R Pattinam Police Station, Karaikal, that the counter petitioner has planned to eliminate the alleged conspirators involved in the commission of murder of Ezhilarasi's husband and also who have been listed to have assisted the assailants namely, Govindaraj and Maheshwaran of Karaikal to escape after the murder of Ezhilarasi's husband namely, Ramu @ Radhakrishnan. In conclusion, the Station House Officer, T.R Pattinam Police Station, Karaikal, being the petitioner has submitted that the counter petitioner is a hard core criminal and detrimental to the peace and tranquility of public life and the security of the public is at stake due to his notorious criminal activities. He along with his active associates are waiting to extort money from people of rich wealth and business community by inflicting fear of threat to their life so as to accumulate amazing wealth to fund his heinous act.

7. Whereas, the counter petitioner was summoned to appear in this Court on 20-05-2019 at 3.30 p.m. to answer to the charges under sections 144 (i) and (ii) Cr.PC *vide* summons served under M.C. No. 256/2019, dated 14-05-2019. While the counter petitioner was called absent and the petitioner appeared to state that summons could not be served to the counter petitioner at the residential address as specified in I.R. No. 54/2019 and he was not found in such an address. The petitioner however, continued to depose before this Court on the contents of information laid under section 144 (i) and (ii) of Cr.PC. on 07-06-2019 stated as to have served summons of this Court in M.C.No. 256/2019, dated 14-05-2019 to one G. Selladurai, s/o. Govindhasamy, who works as private Security Guard at the reportedly transit residential house of the counter petitioner known as No. 254, 5th Cross, Nethaji Nagar, Karaikal under the Neravy Police Station limits at the residential house of the counter petitioner on 27-06-2019 and obtained the acknowledgments. While the Counter Petitioner was called absent on the day of enquiry by this Court on 07-06-2019 also.

8. Whereas, in my opinion, it has been made to appear to this Court that there were sufficient grounds for proceeding against the counter petitioner under section 144 (i) (ii) and (iii) of Cr.PC. Hence, the counter petitioner Vive @ Vickraman, s/o. Jaganathan @ Dhanabal was directed to appear in person before this Court on 19-07-2019 at 3.30 p.m. to show cause as to why he should not be ordered not to enter the entire region of Karaikal District with immediate effect which is under the jurisdiction of this Court for a period of 2 (two) months except on the days he is summoned by any other Hon'ble Court of Law at Karaikal.

9. Whereas, the counter petitioner appeared in this Court along with his Counsel on 19-07-2019, while the learned Counsel appearing for the counter petitioner argued on this point that the counter petitioner could not be prohibited from entering Karaikal District as himself usually resides in a place of residence within the Karaikal District and also prayed for time while filing the counter affidavit on 24-07-2019. The Station House Officer in turn refuted the version of argument that the counter petitioner himself is facing life threat since, he has involved himself in murder cases as one among the accused within the jurisdiction of Karaikal District on the other hand the counter petitioner also has been identified as a potential life threat to those members of rival gangs victimised by his dreaded criminal activities. Hence, it appears to this Court that there is an intense gang rivalry which could lead to cognizable offences that would certainly thwart maintenance of law and order, public peace and tranquility in the Karaikal District, since, the counter petitioner is reportedly operative along with his supporters in and around the area covered within the jurisdiction of this Court.

10. Whereas, counter affidavit and objections respectively, filed by the Counsel for the counter petitioner and also by the Station House Officer, T.R.Pattinam Police Station, Karaikal were received by this Court on 29-07-2019 and 02-08-2019 and were examined in detail. Contention asserted by the counter petitioner to question the provisions revoked by this Court under sections 144 (i), (ii) and (iii) of Cr.PC. which are reportedly contrary to the fundamental rights granted by the Article 14 of the constitution of India were not acceptable to this Court, while the objections filed by the Station House Officer, T.R.Pattinam Police Station, Karaikal, stands to refute all the averments of the counter petitioner that he has no valid legal immunity to defend the invoking the provisions of 144 (i), (ii) and (iii) of

Cr.PC against him. This Court adopts such a view as clearly established by the Section 144 (i) of the Cr.PC. that a Magistrate can act in derogation of private civil right when such rights conflict with other rights of the public or tend to endanger the public peace and tranquility. The very purpose of Section 144 Cr.PC. is to give such direction that may be necessary to uphold public order and tranquility. Hence, the argument of the learned Counsel for the counter petitioner that the counter petitioner's civil right is violated cannot be the grounds for non-application of section 144 of Cr.PC. Even fundamental rights are subject to reasonable restrictions such as on the basis of the interests of the general public. In this case, the rights of the general public to public order and safety take precedence over a private civil right.

11. Therefore, this Court reviewed the prayer by the petitioner, who has submitted to this Court that the counter petitioner may be ordered not to enter into Karaikal District for a period of 2 (two) months in order to prevent the danger to the human life and properties and disturbance to the public tranquility and order in jurisdiction of the Hon'ble District Magistrate, Karaikal by invoking the provisions under sections 144 (i), (ii) and (iii) of Cr.PC. except on the days he is summoned by any other Hon'ble Court of Law at Karaikal.

12. Whereas, I am satisfied that based on the information placed before me and other facts which are brought out through enquiry report placed by the Station House Officer, T.R.Pattinam Police Station, Karaikal that if, the counter petitioner is allowed to move free handedly within the jurisdiction of Karaikal District, then his free movement would cause fear and apprehension in the minds of general public which would also severely affect the public tranquility, good order, common peace in the area of living with in the jurisdiction of T.R.Pattinam Police Station and also with in the entire jurisdiction of this Court in Karaikal District.

13. Hence, I, M. Adharsh, Subdivisional Magistrate, Karaikal, after going through the information laid before me and also after satisfying myself of the need for prohibition of certain activities of the counter petitioner, doth hereby pass Prohibitory Orders to the Counter Petitioner, Vive @ Vickraman, s/o. Jaganathan @ Dhanabal under section 144 (i), (ii) and (iii) of Cr.PC. to restrain him not to enter into the entire region of Karaikal District which is under the jurisdiction of this Court, for a period of 2 (two) months (or) 60 (sixty) days with effect from the date of issue this order (or) till any further order passed by the competent authority revoking this prohibitory order as per law whichever is earlier, except for the days he is summoned by any other Hon'ble Courts of Law at Karaikal District.

Dated, this 14th day of August 2019.

M. ADHARSH,
Subdivisional Magistrate, Karaikal.