
(1993) 12 MAD CK 0060

In the Madras High Court

Case No : Criminal Miscellaneous Petition No. 19253 of 1990

Muthulakshmi and 3 Others

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 07-12-1993

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 157, 482
Penal Code, 1860 (IPC) — Section 160

Citation : (1994) 1 LW(Cri) 261

Hon'ble Judges : Pratap Singh, J

Bench : Single Bench

Advocate : M. Karpagavinayagam, for the Appellant; E. Raja, Government, Advocate (Criminal Side) for Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Pratap Singh, J.—"A" Party in C.C. No. 7840 of 1990 on the file of the IX Metropolitan Magistrate's Court, Saidapet, Madras, had filed this petition under S. 482, Code of Criminal Procedure, praying to call for the records in the above case and quash the same.

2. The short facts are: The respondent has filed a charge sheet against "A" party and "B" party for an offence under S. 160, Indian Penal Code, on the allegation that on 21.10.1990 at 3:00 p.m. in front of the house bearing door No. 27, Kanniammal Bazaar Lane, accused 1 to 4 as one party and accused 5 to 8 as another party, were abusing each other with obscene words and were beating each other and thereby committed rioting in a public place causing disturbance to public peace and traffic.

3. Mr. M. Karpagavinayagam, learned Counsel appearing for the petitioners, would submit that S. 160 I.P.C. is a cognizable offence and that investigation was not conducted as enjoined by S. 157, Code of Criminal Procedure, in that no statement of any witness was recorded and merely copies of the First Information Report and charge sheet were furnished to the petitioner and on this

short ground, the case is liable to be quashed. I have also heard Mr. E. Raja, learned Government Advocate, on the above aspects.

4. I have carefully considered the submissions made by the rival counsels. It is not in dispute that the offence under S. 160 I.P.C. is a cognizable offence. While so, the investigating officer is duty bound to follow the procedure laid down in S. 157, Cr.P.C. by recording the statements of the witnesses and gathering other materials and file a final report. In the instant case, the investigation was not conducted as required and no statements were recorded and merely a final report was filed. In view of this infirmity, which goes to the root of the matter, the entire proceedings is liable to be quashed. Hence this petition is allowed and all further proceedings in C.C. No. 7840 of 1990 on the file of the IX Metropolitan Magistrate's Court, Saidapet, Madras, shall stand quashed.