

**MEMORANDUM OF CRIMINAL ORIGINAL PETITION
FILED U/S 482 OF CRIMINAL PROCEDURE CODE**

**IN THE HIGH COURT OF JUDICATURE MADRAS AT
MADURAI BENCH
(Criminal Original Jurisdiction)**

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

-Against-

Crime No: 189 of 2022

(On the file of Respondent Kumbakonam Taluk Police Station)

1. Simon(28/2022)

(Wrongly mentioned as Saiman
instead of Simon in F.I.R.)

S/o. Isanraj

No.9, Men Collage Road

Melakaveri

Kumbakonam

Thanjavur-612002

2. Saravanan(24/2022)

(Wrongly mentioned as Paipass Saravanan
instead of Saravanan in F.I.R.)

S/o. Arumugam

No. 4/1314, Ammapettai

Keezha Street

Tharasuram, Valaiyapettai

Kumbakonam Taluk

Thanjavur District

3. Vignesh @ Poovicky (22/2022)

S/o. Jayachandran

No. 4/1025,Gurunathan Pillai Colony

Tharasuram

Kumbakonam

Thanjavur District -612702 ... **Petitioner/ Accused No: 1 to 3**

-Vs-

1. The State Represented by
The Inspector of Police
Kumbakonam Taluk Police Station
Thanjavur-District
(In Crime No: 189 of 2022)... **Respondent No.1 /Complainant**

2. Mr. Govindaraj
S/o. Not Known
Special Sub Inspector
Kumbakonam Taluk Police Station
Thanjavur- District... **Respondent No.2/ Defacto Complainant**

PETITION FOR QUASH

The address for service on the Petitioner is as stated above and that of his counsel M/s. Henri Tiphagne, R. Karunanidhi and G. Perumal, No. 32, Besant Road, Chokkikulam, Madurai. The address for service of all notice and process of this Hon'ble Court on the Respondents is stated as above.

1. It is respectfully submitted that the Petitioner is the Accused No.1 in Crime No.189 of 2022 on the file of the Respondent No-1, Police station. The Respondent police registered a case in Crime Number.189 of 2022 dated 10.04.2022 for the offences under sections143, 341, 353 of IPC. And 7(1)(a) of The Criminal Law Amendment Act,1932.

2. It is submitted that the Petitioner prefers this Criminal Original Petition praying this Hon'ble Court to call for the records pertaining to the Impugned First Information Report in Crime No. 189 of 2022 on the file of Respondent No-1 Police Station and quash the same illegal.

3. **Prosecution Case:** It is submitted that the defacto complainant namely, Govindaraj who is working as Special Sub Inspector of police, at Kombakonam Taluk Police Station, has alleged in his complaint that on 10.04.2022 at about 09.45 A.M. the Petitioners/Accused No. 1 to 3 and other accused Persons gathered together to conduct first year homage meeting of the deceased Silambarasan at the Mathavan Seethaiyammal Marriage Hall. Further, it was alleged that they obstructed law and order. Based on the complaint the 1st Respondent Police case was registered in Crime No. 189 of 2022 under section 143, 341, 353 IPC and 7 (1) (a) of The Criminal Law Amendment Act The Petitioners /Accused shown as No.1 to 3.

4. It is submitted that deceased Silambarasan son of Kaliamoorthy was about 30 years and he was engaged in mechanic work. He belonged to a Scheduled Caste. There were a few criminal cases pending against the said Silambarasan in Sirkali, Mannarkudi, Kumbakonam Police limits. So, he was listed in the history sheet. He was married and has two children. On 08.04.2021, he came down to his parents' place at Tharasuram MGR Colony to attend a case hearing. The Kumbakonam Police came to know that Mr. Silambarasan was in station and they went to nab him. It is alleged that seeing the police Mr.Silambarasan jumped into a lake nearby and tried to escape from the police and the police waited for him to surface and threw stones at him and killed him. This incident flared up and the people got angry against the police.

5. It is further Submitted that Silambarasan's Mother Mrs. Valli had filed a Writ Petition before the this Hon'ble Madurai Bench Madras High Court in WP (MD) No. 7959 of 2021 on 14.04.2021 and she

prayed to exhume the body to undertake a second post mortem since she believed that the police who went to apprehend her son, killed him and also to initiate an investigation against the police who are involved in it. The Hon'ble High Court directed to exhume the body and subject the body to a second post mortem and directed the CBCID police to enquire into the murder of Mr.Silambarasan who was believed to have been tortured and murdered by the Kumbakonam Police while in custody. The second Post Mortem was conducted on 20.04.2021 and the Histopathology indicated some anti-mortem hemorrhages. The Petitioner was instrumental in taking up the case of Silambarasan to this level, making the state accountable and Case pending before this Hon'ble High court past one year.

- 6.** It is submitted that the petitioner and other accused persons had decided to conduct the meeting in a hall to commemorate the first death anniversary of the said Silambarasan and booked M/s. Tharasuram Madaavan Sitaialmal Hall, Kumbakonam, Tanjavur on 25.03.2022 and a receipt No.38 was obtained. So, only as a matter of courtesy, a formal intimation was provided to the local police on 26.03.2022 by Mr. Balamurugan who is an advocate of the Petitioner and when the police were against such a in-door meeting being held even at the time of intimation since the meeting was titled "First Anniversary of Mr. Silambaras an who was brutally murdered by Kumbakonam Police". The Police objected to the title of the meeting stating a criminal case is pending investigation into the death of Silambarasan and they did not want any controversy. After that, the organisers shared the invite to the meeting widely since 07.04.2022 on the social meeting and they pasted wall posters in and around the district.

7. It is further submitted that on 08.04.2022 when Mr. Vignesh son of Jeyachandran and Saravanan son of Arumugam were sticking the wall posters, the taluk police Inspector Ramesh kumar, Sub-inspector Mohan and their jeep driver illegally detained them at the Police Outpost in the Government Hospital Kumbakonam and left them after a short period of illegally detaining them and seizing all the 500 wall posters and 10 Kg glue which they had. Then on 09.04.2022 the Superintendent of Police, Deputy Superintendent of Police, Inspector of Police Kumbakonam called the petitioner and asked them not to conduct the meeting stating the police denied permission to conduct the meeting. The petitioner and Mr. Jeyapandian and a few other organized insisted with the police that a hall meeting does not need permission of the police but the Kumbakonam taluk police Sub-Inspector Mohan and Special Branch Veluchamy went ahead and threatened the hall owner to cancel the booking and even went to get a letter from him denying permission to hold a meeting of that sort. The said police even prevented the "Joint Action Group" in making arrangements by keeping the hall under lock and key. Then on 10.04.2022 at about 8.30 AM the police opened the hall by giving the keys to the owner and gave oral permission to hold the meeting. When the meeting was started with a praise by drums and music, again a team of Policemen came and interrupted the meeting and first arrested the drummers from 'NimirvuKalaiagam' and then arrested the organizer of the meeting. Thereafter, the Petitioner/Accused Jeyapandian and another person went to the Kumbakonam taluk police station and intimated about the events being unfurled in the hall. Since the police had resorted to arrest in the case of such a meeting, some of the people numbering a less members, who had come for the meeting staged a road blockade and again the police arrested 20 persons along with the wife and children of Silambarasan.

8. It is submitted that the Petitioner was a member of JAACT (Joint Action Against Custodial Torture) an outfit constituted post the Sathankulam Jeyaraj and Benix custodial death which shook the conscience of not only the entire state but even of the country and comprising several other political parties and movements of different sections of society. It is submitted that the Petitioner and other persons were only engaged in the preparation of conducting an indoor meeting to commemorate the first death anniversary of Silambarasan and this peaceful non-violent demonstration was only since the police had arrested some of the organisers, including the First Petitioner. The Petitioners herein never involved in any violent activity during the peaceful protest and no untoward incident is also stated to have taken place even as per the FIR. There is no specific overt act as against the Petitioner as well in this case.
9. It is submitted that Petitioners / Accused Persons No. 1 to 3 have not yet been granted a bail order by the Learned Judicial Magistrate Court No.II, Kumbakonam. in connection with FIR in Crime No. 189 of 2022 on the file and the Petitioners have also been falsely implicated in a Sec 111 of Cr.P.C. proceedings in No. 1 in Na.ka. 2867 /2022 M.C.No. 03-2022-Aa-4.dated 13.04.2022.
10. It is submitted that the Petitioners /Accused No. 1 to 3 accused persons had only prepared to conducting indoor meeting in a peaceful manner when the Petitioners /Accused No. 1 to 3 were already arrested by the police. The Petitioners herein never involved in any violent activity during their meeting and on the other hand it was only an indoor meeting that they had planned to conduct.

11. It is submitted that the promulgation issued under Section 30(2) of the Police Act, 1861, must satisfy the test of reasonableness and can only be in the nature of a regulatory power and not a blanket power to trifle any democratic dissent of the citizens by the Police. Hence the petitioners having no other effective and efficacious alternative remedy except to approach this Hon'ble Court by invoking the inherent powers conferred under section 482 of Cr.P.C for the following among other,

GROUND

- i. It is submitted that the facts of this case will clearly fall under the grounds laid down in covered by the decision of this Hon'ble Court (*M.Maridoss and Vs State Represented by Inspector of police*), and this Hon'ble Court passed the order in CrI.OP.(MD).No. 19872 of 2021 dated 14..12.2021. Section 124(A), 153 (A), 504,505(1)(b) & 505 (2) of IPC have not been made out and hence FIR has to be quashed.
- ii. It is submitted that there is no prohibition for conducting indoor meetings. But Respondent police is violating the Petitioners fundamental rights guaranteed under Article 19(1) (a) of the Indian Constitution. The freedom of speech and expression cannot be taken away by the Respondent police by misusing police power.
- iii. It is submitted that the Respondent police registered a case under section 143 of IPC. This Hon'ble Court while dealing a quash petition filed in CrI.O.P.(MD)No.17957 of 2021 (*A. Muniadhas vs The Inspector of Police*), was allowed by this Hon'ble Court on 25.11.2021. Para 3 follows "As I do not fault the first respondent

for registering the FIR. The question is whether the prosecution should be allowed to continue. The petitioner is a member of the political party. They have only raised a legitimate public issue. As a result of the petitioner's conduct, no adverse consequence ensued. The accused has not indulged in any act of violence. I am therefore of the view that continuation of the impugned prosecution is not warranted. FIR stands quashed. The Criminal Original Petition is allowed. The benefit of this order will ensue to the non-petitioning accused also."

- iv. It is submitted that the 143, 341, 353, of IPC. And 7(1)(a) of The Criminal Law Amendment Act. 1932 could not be attracted as against the Petitioner. The Petitioner and other persons in the case have not violated any law. The Petitioner and other accused Persons conducted demonstration against the delinquent police officers and suspend them immediately from service for their involvement in the torture and consequential custodial murder of Silambarasan in a totally peaceful manner.
 - a. It is submitted that this Hon'ble Court while dealing a quash petition which is of similar nature, in CRL.OP (MD).No.10774 of 2020 (Peer Maideen vs The Sub inspector of police), was allowed by this Hon'ble Court on 05.10.2020. Para 5 reads as follows: "Though, there are prima facie materials to justify the registration of the First Information Report, I am of the view that its continuance is not warranted. This is because no untoward incident had taken place. The country had witnessed protests all over by different sections of people against the said amendments. The petitioner is a member of political party. Therefore, he had also organized a protest. Since the protest was peaceful and even the First Information Report does

not disclose any act of violence or happening of untoward incident, I am of the view that the continued prosecution is not warranted. Quashing the same will secure the ends of justice.”

- b. It is submitted that the Petitioner and others had only planned to conduct an indoor meeting to condemn police atrocities and commemorate the first anniversary of the death of Silambarasan. The meeting was also only to suspend the police officers immediately from service for their involvement in the torture and consequential custodial murder of Silambarasan in a peaceful manner and justice to be need in this regarding. Act. The Petitioner did not indulge in any violent activities. Freedom of Expression is guaranteed under Article 19 of the Constitution of India and hence the offences under Sections Sections 143, 341, 153, 153B (1)(c) ,120B of IPC. And 7(1)(a) of The Criminal Law Amendment Act.1932.will not be attracted as against the Petitioner.
- c. It is submitted that the Petitioner has not violated any traffic regulations as alleged in the impugned FIR. There is no specific averment as against the Petitioner. It is further submitted that right to freedom of assembly without any arms also guaranteed under the Article 19 of the Indian Constitution.
- d. It is submitted that the Petitioner and others have conducted their demonstration in peaceful manner and no untoward incident had taken place during the protest. Looking at the case from this angle also, the impugned FIR cannot be sustained. On the facts and circumstances of the cases, this court can clearly see that the criminal proceedings are manifestly attended with malafide and with an ulterior motive for wreaking vengeance on the accused and

with a view to spite him due the private and personal grudge. The facts of this case will clearly fall under the grounds dictum laid down in State of Haryana and others Vs. Bhajan Lal and others reported in 1992 Supp (1) SCC (335).

It is most respectfully prayed that this Hon'ble Court may be pleased to **stay** all further proceedings in Crime No.189 of 2022 on the file of the Respondent No-1 Police Station till the disposal of the Criminal Original Petition and thus render justice.

For the reasons stated above, therefore it is most respectfully prayed that this Hon'ble Court may be pleased to call for the entire records pertaining to the Impugned First Information Report in Crime No.189 of 2022 on the file of Respondent No-1 Police Station and quash the same as against the Petitioner concerned and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Madurai on this the 26th day of April 2022

Counsel for the Petitioner

R. KARUNANIDHI (2919/2008)

Plot No: 12A/59, Muthu
VinayagaNagar,
Ulaganeri, Uthangudi Post,
Madurai – 625 107,
Govt Law College, Madurai.
Cell- 9994513250

**MEMORANDUM OF CRIMINAL MISCELLANEOUS PETITION
FILED U/S 482 OF CRIMINAL PROCEDURE CODE
IN THE HIGH COURT OF JUDICATURE MADRAS AT MADURAI**

BENCH

(Criminal Original Jurisdiction)

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

IN

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

-Against-

Crime No: 189 of 2022

(On the file of Respondent Police Station)

1. Simon(28/2022)

(Wrongly mentioned as Saiman
instead of Simon in F.I.R.)

S/o. Isanraj

No.9, Men Collage Road

Melakaveri,Kumbakonam

Thanjavur-612002

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(Wrongly mentioned as Paipass Saravanan
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S/o. Arumugam

No. 4/1314, Ammapettai

Keezha Street

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Thanjavur District

3. Vignesh @ Poovicky (22/2022)

S/o. Jayachandran

No. 4/1025,Gurunathan Pillai Colony

Tharasuram

Kumbakonam

Thanjavur District -612702 ... **Petitioner/ Accused No: 1 to 3**

-Vs-

1. The State Represented by
The Inspector of Police
Kumbakonam Taluk Police Station
Thanjavur-District
(In Crime No: 189 of 2022) ... **Respondent No.1 /Complainant**

2. Mr. Govindaraj
S/o. Not Known
Special Sub Inspector
Kumbakonam Taluk Police Station
Thanjavur- District... **Respondent No.2/ Defacto Complainant**

STAY PETITION

For the reasons stated that the accompanying Criminal Original Petition, therefore it is most respectfully prayed that this Hon'ble Court may be pleased to **stay** all further proceedings in Crime No.189 of 2022 on the file of the Respondent No-1 police station till the disposal of the Criminal Original Petition and thus render justice.

Dated at Madurai on this the day 26th of April, 2022

Counsels for the Petitioner

**IN THE HIGH COURT OF JUDICATURE MADRAS AT
MADURAI BENCH
(Criminal Original Jurisdiction)**

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

-Against-

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S/o. Isanraj
No.9, Men Collage Road
Melakaveri
Kumbakonam
Thanjavur-612002 and 2 others

... Petitioner/ Accused No: 1 to 3

-Vs-

1. The State Represented by
The Inspector of Police
Kumbakonam Taluk Police Station
Thanjavur-District
(In Crime No: 189 of 2022)&1another

...Respondent No.1//Complainant

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It is certified that above documents are true copies from the respective originals.

Dated at Madurai on this the 26th day of April 2022

Counsel for Petitioner.

DISTRICT: THANJAVUR

**BEFORE THE MADURAI
BENCH OF MADRAS HIGH
COURT**

(Criminal Original Jurisdiction)

CRL.O.P (MD) NO. of 2022

INPUGNED ORDER

M/s. Henri Tiphagne (463/83)

R.Karunanidhi (2919/2008)

G.Perumal (1488/2019)

Counsels for the Petitioner

Mobile No.99945 13250

**IN THE HIGH COURT OF JUDICATURE MADRAS AT
MADURAI BENCH
(Criminal Original Jurisdiction)**

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

-Against-

Crime No: 189 of 2022

(On the file of Respondent Kumbakonam Taluk Police Station)

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(Wrongly mentioned as Saiman
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S/o. Isanraj
No.9, Men Collage Road
Melakaveri
Kumbakonam
Thanjavur-612002 and 2 others

... Petitioner/ Accused No: 1 to 3

-Vs-

1. The State Represented by
The Inspector of Police
Kumbakonam Taluk Police Station
Thanjavur-District
(In Crime No: 189 of 2022)&1another

...Respondent No.1//Complainant

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Dated at Madurai on this the 26th day of April 2022

Counsel for Petitioner

**IN THE HIGH COURT OF JUDICATURE MADRAS AT
MADURAI BENCH
(Criminal Original Jurisdiction)**

Crl.O.P.(MD).No. of 2022

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... Petitioner/ Accused No: 1 to 3

-Vs-

1. The State Represented by
The Inspector of Police
Kumbakonam Taluk Police Station
Thanjavur-District
(In Crime No: 189 of 2022)&1another

...Respondent No.1//Complainant

SYNOPSIS

1. Date of FIR: 10.04.2022
2. Stage of the Case: Final Report filed in FIR No: 189 of 2022 –
Pending trial
3. Offences alleged: Under Sections section 143, 341, 353 IPC and 7 (1)
(a) of The Criminal Law Amendment Act
4. Number of Accused : 3

5. Nature of injury : No Injury

6. Any previous case : Not Known

7. Number of victims: Nil

2. **8. Brief of Case:** It is submitted that the defacto complainant namely, Govindaraj who is working as Special Sub Inspector of police, at Kombakonam Taluk Police Station, has alleged in his complaint that on 10.04.2022 at about 09.45 A.M. the Petitioners/Accused No. 1 to 3 and other accused Persons gathered together to conduct first year homage meeting of the deceased Silambarasan at the Mathavan Seethaiyammal Marriage Hall. Further, it was alleged that they obstructed law and order. Based on the complaint the 1st Respondent Police case was registered in Crime No. 189 of 2022 under section 143, 341, 353 IPC and 7 (1) (a) of The Criminal Law Amendment Act The Petitioners /Accused shown as No.1 to 3.

DATES AND EVENTS

Sl. No.	Date	Particulars
1.	10.04.2022	Copy of FIR in Crime No.189 of 2022
2.	---	Petitioners' Aadhar Cards

Dated at Madurai on this the 26th day of April 2022

Counsel for the Petitioner

