

IN THE SUPREME COURT OF INDIA**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO(S). 295-307 OF 2019
[ARISING OUT OF SPECIAL LEAVE PETITION (CRIMINAL)
NO.10058-10070/2018]**

**THE STATE OF TAMIL NADU & ORS.
ETC. ETC. ...APPELLANT(S)**

VERSUS

K KATHIRESAN & ORS. ETC. ETC. ...RESPONDENT(S)

ORDER

1. We have heard the learned counsels for the parties.

2. Leave granted.

3. The grievance raised, primarily, is with regard to the observation of the High Court made in paragraph 42(d) of the impugned order, which is to the following effect:

“(d) The case of the petitioners is that the State/police and other authorities are guilty of murder. We fail to understand how not a single case, not even invoking Section 174 Cr.P.C., has been registered at the instance of the injured/family members of the deceased. The truth or otherwise of the allegation is a matter for investigation. An investigation cannot

be altogether avoided. We have above recorded how, even according to the State, police shooting came to be resorted to. Admittedly, he, who ordered the same, had assumed powers of an Executive Magistrate. Whether he was justified in doing so or not, whether he would be entitled to protection u/s 79 IPC or not, whether shooting persons in the face and chest amounted to police excesses of murder or not, to state a few, are all matters for investigation. Were incidents orchestrated and if so, by whom is to be looked into. How and why protesters were permitted to gather in their thousands and proceed as much as 12 kms. leading to the occurrence at the Collectorate is to be probed. The allegation of shooting at Theresapuram, which is 12 kms. away from the Collectorate having been resorted to, shortly after shooting was resorted to at Collectorate, is to be probed. Cases have to be registered against the authorities for offences u/s 302 IPC as also for other offences under the Indian Penal Code, Arms Act and such other acts as may be attracted....."

Underlining is ours

4. Shri V. Giri, learned Senior Counsel appearing for the appellants submits that the appellants have no objection to the investigation of the case(s) by the Central Bureau of Investigation (CBI) and the sole grievance is in respect of the aforesaid observation, extracted and highlighted above.

5. Having considered the matter and after hearing the learned counsel for the respondents we are of the view that as the CBI has been ordered to investigate the case(s), what offences are made out at the end of the investigation should be left to the CBI. The High Court, therefore, in our considered view, was not justified in making the aforesaid observation which stands expunged. We direct the CBI to conduct the investigation in a free and impartial manner uninfluenced by any observations that the High Court has recorded in the impugned order including the observation that has been now expunged by the present order.

6. With the aforesaid directions, the appeals are disposed of.

.....,CJI.
(RANJAN GOGOI)

.....,J.
(SANJIV KHANNA)

NEW DELHI
FEBRUARY 18, 2019

ITEM NO.51

COURT NO.1

SECTION II-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (CRL.) NO(S). 10058-10070/2018

(ARISING OUT OF IMPUGNED FINAL JUDGMENT AND ORDER DATED 14-08-2018 IN WP NO(S). 11391, 11394, 11396, 11397, 11398, 11399, 11401, 11402, 11502, 11661, 12297, 13231 AND 13417 OF 2018 PASSED BY THE HIGH COURT OF JUDICATURE AT MADRAS AT MADURAI)

THE STATE OF TAMIL NADU & ORS.ETC. ETC.

PETITIONER(S)

VERSUS

K KATHIRESAN & ORS. ETC. ETC.

RESPONDENT(S)

(FOR ADMISSION AND I.R. AND IA NO.168350/2018-EXEMPTION FROM FILING O.T.)

Date : 18-02-2019 These petitions were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s)

Mr. V. Giri, Sr. Adv.
Mr. M. Yogesh Kanna, AOR
Mr. S. Partha Sarathi, Adv.
Mr. S. Raja Rajeshwaran, Adv.

For Respondent(s)

Mr. Colin Gonsalves, Sr. Adv.
Ms. Harini Ragupathy, Adv.
Mr. Satya Mitra, AOR

Mr. Reegan S. Bel, Adv.
Mr. Jogy Scaria, AOR
Ms. Beena Victor, Adv.

Mr. Beno Bencigar, Adv.
Mr. Parijat Kishore, AOR

Mr. P.V. Surendranath, Sr. Adv.
Ms. Resmitha R. Chandran, AOR
Ms. LekhaSudhakaran, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

Leave granted.

**The appeals are disposed of in terms of the signed
order.**

[VINOD LAKHINA]

AR-cum-PS

[ANAND PRAKASH]

BRANCH OFFICER

[SIGNED ORDER IS PLACED ON THE FILE]