

In the court of the I Additional District and Sessions Judge, Madurai

Present Thiru.G.Muthukumaran B.Sc., M.L.,

I Additional District and Sessions Judge, Madurai

Cr.M.P. No.5137/2025 in S.C.No.470/2020

On the 25th day of November 2025 , Tuesday

State of Tamilnadu Represented by

Additional Superintendent of Police

CBI, SC-II New Delhi

...Petitioner/complainant

/vs/

Mr. Sridhar & 8 others

...Respondent /Accused No.1to 9

In this petition the Learned Public prosecutor has appeared for the Petitioner. CBI and A1 Thiru. S.Sridhar has appeared in person and Advocate Mr. Vinothkumar Gambly has filed vakkalath for Tr.Sridhar and Mr.Ramasubramaniam is appointed as legal aid counsel to defend the respondent/A1. and Advocate Mr.G.Gopala Krishnan has appeared for A2 , Advocate Mr.Ka.Ramakrishnan has appeared for A3, Advocate Mr.G.Mariyappan has appeared for A4, Advocate Mr.N.Selvaraj has appeared for A5, Advocate Mr.K.Velusamy has appeared for A6, Advocate Mr.Siva Surya Narayanan has appeared for A7, Advocate Mr.C.Muthumohan has appeared for A8, Advocate Mr.S.Sivakumar has appeared for A9. That on hearing both side on 20-11-2025 and on perusing the records having stood over for consideration of this court till this date this court delivers today the following

ORDER

1. This petition is filed under section 216 of the code of criminal procedure code to frame additional charges against the Accused 1 to 9.

2. Brief Statement of the Petition Affidavit :-

That the oral and documentary evidence adduced on the prosecution side clearly reveals that the respondents/Accused 1 to 9 have committed the substantive Offence under section 120B of IPC. That as per section 216 of Cr.P.C court may alter or add to any charge at any time before the judgment is pronounced” . That the evidence on record clearly establish that Criminal conspiracy hatched among the accused . That on 18.06.2020 around 8.30 pm, while the Jeyaraj along with some others were talking in front of his shop , A2 Balakrishnan along with A-6 Muthuraj has come there and scolded them to leave that place and that A2 Balakrishnan has told that, he will return after a while and if someone is seen standing there he will peel off their skin . That after A-2 Balakrishnan left that place, Jeyaraj has joked with the fellow people that, those people arrogantly behaves with the public deserves to be beaten due to their rude and bad behavior. That on hearing this the accused had entered in to criminal conspiracy and they had searched for Jeyaraj from the morning on 19.06.2020 and that at about 07.30 Pm the A-1,A2, A6 had illegally picked up Jeyaraj from Kamarajar Chowk Sathankulam and taken him to the Sathankulam police station. That the CCTV footage reveals the incident happened on 18.06.2020 in front of the Jeyaraj Shop. That PW.47 Revathi has identified the police officials found in the said CCTV footage. That PW12 Mr.Esakki Durai has deposed about the incident that happened on 18.06.2020 and on 19.06.2020. That he has deposed that , on 18-6-2020 when they were closing the G.G. Pakiyam shop 2-3 masons were standing outside his shop to collect salary and at that time S.I. Balakrishnan has come

there in a bike with a constable. and he has asked Why are you standing? and he further has told them that he will come in 5 minutes and if anyone be there he will peel of their skin. He further has stated that Jeyaraj was there at that time and that he will usually speaks openly and at that time Jeyaraj have told that first the police one who speaks rough against general public has to be punished. That he cautioned Jeyaraj that policeman named Gundas Balu was there at the auto stand and that he was listening to this .

He has further stated that on 19th morning when he was going to buy milk near the Bennicks shop, Kundas Balu asked him about who spoken about the police yesterday, what was his name, and where is he living . That at around 7.30 pm, the police were arresting those who were not wearing masks and helmets and that time, a constable has came and asked the auto man about who scolded SI.Balakrishnan on the previous day and that after that S.I Balakrishnan came and said that "Who is there to oppose the police, I will tear the heart out . He has further stated that S.I Balakrishnan went to Jeyaraj and questioned Jeyaraj and at that time Kundas Balu phoned to someone and said that there is the person standing near the post wearing the white dothi and shirt. Then a constable called Jeyaraj to come with him and Jeyaraj also went with him and that they just pushed Jeyaraj into the jeep.

That PW-13 Petchipandi has corroborated the statement of PW-12. and he has stated that, "On June 18, 2020, at around 8.30 pm, when he was standing at the auto stand S.I Balakrishnan and a constable came there in a bike near the Bennicks shop and that at that time there were 4-5 people standing near the shop to collect their salaries. That S.I sir asked them why you are standing until 8.30 pm during the lockdown and they told that they were standing to collect their salaries and their owner had gone to the hospital. That S.I Balakrishnan told them that if you stand there when I come back, I would peel your skin. That Jeyaraj

asked those people as to why the police are making noise .For that they told him that they said to the police that they were standing to collect their salaries and that they would leave after their boss came and for that the police are making noise. Jeyaraj immediately said that Are the police gods? and asked them that why did not you explained it to the police. .He further has stated that Jeyaraj told this in the presence of Gundas Balu and that on June 19th, at 7.45 pm, when he returned to park his auto at the autostand, Jeyaraj was kept in a sumo. That seeing this, he went to Bennicks and told him that, the police have kept your father in a sumo."

That the evidence of Pw 44 Smt Beaula Selva Kumari discloses that , A-2 Balakrishnan beaten Jeyaraj near the stair case of the police station with stick stating that are you rowdi ,Did you say police to be beaten? and could you beat now? .

That PW 11 Sh.Arivin has deposed that On 19-6-20 at about 7.30 Pm when closing the fruit stall a Police Jeep stopped near Vandi Mrichiamman temple and they were doing vehicle check up and Mask Check up .That Sridhar , SI Balakrishnan and 5 to 6 constables were there and Few minutes latter a SI and a constable came near the mobile and fruit shop and asked that who spoke ill about the police on the previous day and soughted that could you say so now and uttered filthy words and told that if you have guts utter the same thing now. Then the SI and the constable went to the Jeep. In few minutes a constable came and asked Jeyaraj to come with him saying that Ayya calling you, and Jeyaraj rushed to the Jeep and they told that they have find out who soughted at police and asked Jeyaraj to get in to the jeep and pushed him in to the back seat. That , Jeyaraj told them that he did not said anything and he dose not know who spoken like that. Then Inspector turned his face from the front and told that we have confirmed that you have said so.

That PW-20 Sh.S.Ravichandran has mentioned in his statement that, “ when he asked what happened Sub-Inspector Balakrishnan told that on the night of 18.06.2020, Jeyaraj and Bennicks had spoken disrespectfully about the police, and that Head Constable Balasubramanian, who was on leave, had informed this to the Sub-Inspector and brought Jeyaraj for questioning.

That PW-26 A.Jeyasekar has mentioned in his statement that “ We stopped the vehicle around 7.15 Pm near the Vandimarichi Amman Temple in front of the Kamaraj statue near the Sathankulam bus stand. At that time, the Inspector was sitting in the front of the vehicle, S.I Balakrishnan, policeman Muthuraj brought Jeyaraj and kept him on the back of the vehicle. That about 7.45 PM inspector asked us to take the vehicle to the station. While we were going to the station, S.I. Balakrishnan asked Jeyaraj if he scolded the police. Jeyaraj said he had not. S.I. Balakrishnan said he was lying. I asked Muthuraj what he had said. He said that he had brought him to the police station because Jeyaraj Scolded the police.

That Pw 8 Shankar has mentioned in his statement that, at about 7.30 Pm police came to Vandi Marichi amman temple to check the vehicle at that time Bennicks father was standing outside his shop and a police man came to Auto Mani and enquired him. When he enquired Jeyaraj he told that they were enquiring about some one who spoke against the police.

The evidence of the Investigation officer PW-52 would reveal that the offences were committed by the accused police officials 1 to 9 in pursuance of criminal conspiracy hatched among them. That the earlier petition to frame additional charge under section 120 B was dismissed by this court stating that the prosecution has no right to file the petition and aggrieved by the said order, criminal revision was filed before the Hon'ble Madurai Bench of Madras High Court and by the order dated 23.11.2022 passed in Cr.R.C (MD) No.412 of

2021 the Honourable High Court is pleased to set aside the order of this Court and clarified that the petition by the prosecution is very well maintainable. Hence the present petition is maintainable. That generally a conspiracy is hatched in secrecy and it may be difficult to adduce direct evidence of the same. From the act of the accused it has to be inferred that they have done the offence with reference to their common intention. That the conspiracy can be inferred from the direct or circumstantial evidence . That the court must enquired whether they have done the offence independently or in pursuance of unlawful object. That express agreement need not be proved actual meeting of two persons is not necessary. communication between the accused sharing their thoughts is sufficient. The law does not require that the act of agreement must take any particular form .That the agreement may be communicated by words or conduct. The meeting of minds of two or more persons for doing an illegal act or an act by illegal means is a sine qua non of the criminal conspiracy. That if an act is done in pursuance of a criminal conspiracy then all of them will be liable for the offences even if some of them had not actively participated in the commission of the offences. It is not necessary that each member of the conspiracy must know all the details of the conspiracy. That it is also not necessary that a person should be a participant in a conspiracy from start to finish. That a conspirator can join the conspiracy at any stage and similarly leave it at any stage and still he will be liable for the acts of the other conspirators. That conspiracy is a clandestine activity and generally do not committed openly. and prayed to allow this petition .

That the petitioner has cited the following judgments in the petition

a) Lennart Schussler V. Director of Enforcement reported in AIR 1970 Sc 549. the Hon'ble Supreme court held that " the offence of conspiracy is complete when two or more conspirators have agreed to do or cause to be do in act which it itself an

offence. In which case no overt act need be established. An agreement to do an illegal act which amounts to a conspiracy will continue as long as the members of the conspiracy remain in agreement and as long as they are acting in accord and in furtherance of the object for which they entered into the agreement”

b) In Nazir Khan & others V.State of Delhi reported in 2003 (8) SCC 461. the Hon’ble Supreme Court has held that “ Conspiracies are not hatched in the open by their nature. They are secretly planned. The lack of direct evidence relating to conspiracy has no consequence. Privacy and Secrecy are more characteristics of a conspiracy than a loud discussion opened to public view

c) In Ram Narain Vs State of Rajasthan reported in AIR 1973 SC 1188. the Hon’ble Supreme Court has held that it not necessary that there should be express proof of agreement and from acts and contacts of the parties agreement can be inferred

d) In Baburao Bajirao Patil Vs State of Maharashtra reported in 1971 SCC (Cri) 680. the Hon’ble Supreme court held that “ Direct evidence to prove conspiracy is rarely available. Therefore circumstances proved before during and after occurrence have to be considered to decide on the complicity of the accused”. Mostly the conspiracies are proved by the circumstantial evidence, as the conspiracy is seldom an open affair. Usually both the existence of the conspiracy and its objects have to be inferred from the circumstances and the conduct of the parties”

e) In State Vs.Navjot Sandhu reported in 2005(11)SCC 600. the Hon’ble Supreme court held that “ the circumstances before during and after the occurrence can be

taken for consideration to decide about the complicity of the accused”

f) In Mohamad Usman Mohammad Hussain Maniyar & anr Vs State of Maharashtra reported in 1981 SCC (Cri) 477, the Hon’ble Supreme court held that “ for the offence of criminal conspiracy the prosecution need not necessarily prove that the perpetrators expressly agreed to do or cause to be done an illegal act. Such an agreement may be proved by necessary implication. To prove conspiracy it is not necessary that there should be direct communication between each conspirator and every other but the criminal design alleged must be common to all”

g) In Central Bureau of Investigation, Hyderabad V.K.Narayana Rao reported in 2012(9) SCC 512. the Hon’ble Apex Court has held that the courts while drawing an inference from the materials brought on record to arrive at a finding as to whether the charges of the criminal conspiracy have been proved or not must always bear in mind that a conspiracy is hatched in secrecy and it is difficult if not impossible to obtain direct evidence to establish the same. The manner and circumstances in which the offence have been committed and the accused persons took part are relevant.

h) In Shivnarayanan Laxminarayanan Joshi & others Vs State of Maharashtra (1980) 2 SCC 465, the Hon’ble Supreme Court held that “ conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the same. The offence can be only proved largely from the inferences drawn from acts or illegal omission committed by the Conspirators in pursuance of a common design-Once such a conspiracy is proved, act of one conspirator becomes act of the other-A Co-conspirator. Who joins subsequently and commits overt acts in furtherance of the conspiracy, held, is also liable”

i) In Chandra Prakash V. State of Rajasthan, the Hon'ble Apex court held that:- While dealing with the fact of criminal conspiracy, it has to be kept in mind that in case of a conspiracy there cannot be any direct evidence. Express agreement between the parties cannot be proved. Circumstances proved before, during and after the occurrence have to be considered to decide about the complicity of the accused. Such a conspiracy is never hatched in open and therefore. Evaluation of proved circumstances play a vital role in establishing the criminal conspiracy.

j) In Yogesh alias Sachin Jagdish Joshi V. State of Maharashtra:- The basic ingredients of the offence of criminal conspiracy has been enlightened .That for conspiracy there shall be (i) an agreement between two or more persons (ii) the agreement must relate to doing or causing to be done either (a) and illegal act or (b) an act which is not illegal in itself but is done by illegal means. It is therefore plain that, meeting of minds of two or more persons for doing or causing to be done an illegal act or an act by illegal means is sine qua non of criminal conspiracy.

k) In Shivnarayan Lazminarayan Joshi V. State of Maharashtra, it has been held that a conspiracy is always hatched in secrecy and it is impossible to adduce direct evidence of the common intention of the conspirators. Therefore the meeting of minds of the conspirators can be inferred from the circumstances proved by the prosecution, if such inference is possible” The same principles have been stated in

l) In Yakub Abdul Razak Menon V. The state of Maharashtra. it has been held that for an offence under Section 120B Indian Penal Code, the prosecution need not necessarily prove that the conspirators expressly agreed to do or cause to be done the illegal act. The agreement may be prove by necessary implication. It is not necessary that each member of the conspiracy must know all the details of the

conspiracy. The offence can be proved largely from the inferences drawn from the acts or illegal omission committed by the conspirators in pursuance of a common design. The inferences are normally deducted from acts of parties in pursuance of purpose in common between the conspirators. It is also not necessary that each member to conspiracy must know all the details of the conspiracy”.

3. Brief Statement of the counter affidavit filed by the prosecution side Counter by A1:-

That this court after carefully perusing all the materials along with the charge sheet submitted by the CBI have found that no relevant materials and evidences available for the alleged charge of criminal conspiracy and it has framed the charged without 120(b) IPC. That the prosecution already filed the same petition before the Hon’ble Trial Court vide CrI.M.P.178/2021 to add or alter the section 120(b) IPC and it is dismissed on 24.03.2021. Aggrieved by the order, the prosecution preferred the criminal revision petition before the Hon’ble Madurai Bench of Madras High Court vide in CrI.M.P.No.(MD)No.412/2021 and the same was also disposed with the following directions.

(i) The order of the Hon’ble Trial Court that the petition filed by the revision petitioner under section 216 Cr.P.C in not maintainable since it has no right, is not right, and it is set aside and it is clarified that the petition is very well maintainable.

(ii) So far as the concluding portion of the above said under is concerned the revision is dismissed on the grand that it is only on interlocutory order.

(iii) In the light of the changed scenario and circumstances on the basis of the filing of the supplementary final report, the Hon’ble Trial Court may proceed in

accordance with law by offering an opportunity to both sides and decide as to whether to add or alter the charges as the case may be. As observed above it is the duty of the Hon'ble Trial Court to decide and proceed in according with law, in the light of the filing of the supplementary final report. But there is no materials and evidence on record in the supplementary charge sheet filed by the CBI for the alleged the charge of criminal conspiracy against A1 to A 9 . That the prosecution has projected the evidence of PW12 Esakkidurai and PW13 Petchipandi for motive for the conspiracy and there is no other direct or indirect evidence to prove conspiracy. The facts and circumstances said to be disclosed by Pw 12 as narrated in the petition are not mentioned in the charge sheet as well as in the supplementary charge sheet. In the CBCID investigation as well as in the Judicial enquiry the alleged charge of criminal conspiracy are not revealed and established. As per the prosecution Pw 12 is said to have told First, that the police one speaks rough against general public has to be punished but Pw 13 in contra has stated that Jeyaraj said that Are the police gods. Therefore, it will be clear that the above two witnesses have exaggerated and given false testimony after being told by others . That there is no abusive words in those statements and there is no bad remarks against police and there is no reason for the accused to conspire against the deceased . That the prosecution has not examined Gundas Balu to prove that he informed the accused that the deceased spoken against them. and it is quite unbelievable to say that the accused entered in to conspiracy, That Pw 5 Desinguraja the maternal uncle of Bennicks has deposed that on 19.06.2020 at about 07.45 when Bennicks called him over phone he asked about the reason as to why his father was taken by police and he told that on the previous day his father opened the shop beyond 8 PM permitted during the lock down and to esquire about that police has taken his father That it will amount to dying declaration as per the section 32(1) of Indian Evidence Act. Ex.P68 will clearly establish the conversation

between Bennicks with his uncle PW5 from cell phone number 9994068656 to cell phone no.9965479899 for about 96 seconds .That the deposition of PW 30 Thaveedhu PW 17 M.Karupasamy and the 161 Crpc statement of Lw 36 to 38 the inmate Jeyaraj and Bennicks at Sub-Jail Kovilpatti also discloses that” Bennicks father closed the shop belatedly after the permitted hours and that there was a verbal argument between the police and Bennicks and it also will amount to “Dying declaration”. That Bennicks also shouted at Sub-Inspector calling his caste name. That clearly proves that due to wordy quarrel between the deceased Bennicks and the Sub-Inspector, the occurrence had taken place That the statement of co prisoners Sunil, Lakshman, M.Karuppasamy and M.Tamilselvan recorded by PW50, the learned judicial Magistrate No.I, Kovilpatti on 23.06.2020,26.06.2020 and 27.06.2020 also corroborates the statements of PW17, LW36, LW38 beyond doubt. Their statements are marked with the judicial inquiry reports Ex.P.128,129 and Ex.P140 and 141 and they are admissible as dying declaration. That PW52 has stated that the Pws 12 and 13 being civilians did not use the word criminal conspiracy and the criminal conspiracy may be inferred from the circumstances of the case. That the entire evidence of PW12 Esakidurai and PW13 Petchipandi are a cock and bull story. That it would be unsafe to act on the testimony of the Pws 12 and 13 .That they are a planted witnesses. That the testimonies of the PW 44 Bealua SelvaKumari PW11, Arivin, PW20, S.Ravichandran, PW26 A.Jeyasekar, PW8 Ravisankar are not very sufficient for proving the charge of conspiracy and they are not legally admissible evidence to establish the charge of conspiracy. That the citation referred to by prosecution are not applicable to this case. That the CCTU footage MO 23 clearly proves and establish the alleged incident has not happened at 8.20 Pm on 18.06.2020 .Thar PW 47 has deposed that there is no audio recording in the CCTV Footage MO-23 that Balakrishnan scolded any one near Jeyaraj Shop on 18.06.202 at about 8.30

Pm .This will clearly established that nothing happened on 18.06.2020 at about 8.30PM as stated by the prosecution. That as per the CCTV footage MO23, A1 Sridhar was not in the police vehicle when the deceased Jeyaraj was picked up to the police station and also he did not pickup the deceased Jeyaraj to the police station on 19.06.2020 at about 7.30 as alleged by the prosecution. In the examination report of the CCTV footage (MO23) Ex.P.266 A1 Sridhar was not found to be present in the CCTV Footage. The CCTV footage MO23 and statements of inmates establish that the A1 Sridhar did not pick up the deceased Jeyaraj to the police station on 19.06.2020 at about 7.30PM as alleged by the CBI. Ex.P.34 is the General Diary of the police station for the date 19.06.2020. Ex.P.35 is the rough duty register. Ex.P.71 call data records (CDR) of cell phone of A1 Sridhar Ex.D4, the police vehicle diary for the date 19.06.2020. and the daily diary of A1 for the date 19.06.2020 clearly proves and established that A1 was not present in the police station on the date and time of alleged occurrence on 19.06.2020 at night and on the next day morning on 20.06.2020 and at that time, the A1 Sridhar was on night rounds in connection with the corona prevention duty at Pandarapuram, Ammauthunnakudi, Bazaar, Bus stand, Pannamparai, Subburayapuram, Thatchamozhi and bazaar. There are evidence to establish alibi evidence that A1 did not involved in the alleged offence. Hence pray to dismiss the petition.

4. Brief statement of the Counter of filed by A2 :-

That this petition is not maintainable either in law or on facts. It is to be dismissed in-limni That all the averments stated in the petition are denied as false. The evidence Pws 8,11,12,13,26,44 and 52 if at all may lead to prove motive but not conspiracy. That there is no circumstance to invoke 120 B of IPC. and hence pray to dismiss the petition.

5. Brief statement of the Counter filed by A3:-

That the petition is not maintainable as per law and as per the facts of the case. That regarding the incidents said to have happened on 18.06.2020 the evidence of the prosecution is diametrically opposite to the prosecution version. That the prosecution admits that Bennicks voluntarily came to the police station after arrival of Jeyaraj. That the conspiracy could not be continuous. If at all when Jeyaraj is brought to the station on 19.06.2020 it will end there and thereafter it could not be continued. That Gundas balu is neither cited as witness by the investigation or by the Judicial Magistrate and hence adverse inference to be drawn against the prosecution. That the prosecution has relied on the evidence of PW 12,13,44,11,20,26,8 and 52 even if their entire evidence is looked in to absolutely there is no participation by the Accused No.3 on 18.06.2020 or on 19.06.2020 to constitute an offence of criminal conspiracy. That the PW20 himself has admitted that when the said Jeyaraj was brought to the station on 19.06.2020 A3 was not physically present in the station or he contacted anyone in respect of any incidents on 18.06.2020. That even while Ex.P.22 and 23 were prepared Accused No.3 was not in the station and he did not have any knowledge about the said FIR. This will clearly prove that there was no meeting of mind and agreement and there is lack of the ingredient of conspiracy as against accused no.3. That the Ex.P34, 35 and 36 would clearly prove that A3 was not in the station on 18.06.2020 and on 19.06.2020 till the Ex.P.22 and 23 came into existence. That the investigation officer PW 52 has also admitted that when the Ex.P22 and 23 came into existence, A3 was not present in the station nor he had any knowledge. That PW 8,11,12,13 and 26 have admitted that the A3 was not available on 18.06.2020 and there is no meeting of minds or agreement. That earlier application filed by the prosecution in CrI.M.P 178/2021 was dismissed on 24.03.2021 by this court and the same was confirmed by the Hon'ble High Court in CrI.RC (MD) 412/2021 date

23.11.2022. That with the same set of statements without any strong and cogent materials the petitioner has filed this petition. That adding new charge will amount to new trial which will cause prejudice to the accused and it is barred U/s.300 of Cr.P.C. That the accused is under custody right from 01.07.2020 throughout the trial and in such circumstances adding new charge and ordering for further examination of witnesses definitely will cause prejudice to the individual liberty of the accused .That the PW 3 wife of Jeyaraj numerous time has approached the Hon'ble High Court to dispose the case in speedy manner and when the accused move bail application before the Hon'ble High Court has directed this Hon'ble Court to complete the trial on day to day That Jeyaraj and Bennicks went to Judicial Custody on fitness certificate issued by PW 45 and hence the question of conspiracy will not arise. That the incidents quoted by the prosecution does not enlighten that there was meeting of minds and agreements prior to the alleged occurrences and an offence and conspiracy cannot be deemed to be have been established on mere suspicion and surmises. That there is no cogent evidences and the narration of events and no clear link of chain to show that A3 conspired. That the prosecution side has admitted that Bennicks voluntarily came to station and the prosecution cannot pray for criminal conspiracy. That there is no evidence to connect the accused no.3 to the alleged conspiracy Hence it is prayed to dismissed the petition.

6. Brief of the Counter filed by the 4th accused :-

That the petition filed by the petitioner/complainant is not at all maintainable and is liable to be dismissed. That this application filed under section 216 of CrPC is to maintainable at this stage. That the materials placed for alteration of charge is not maintainable. That the earlier application was dismissed by this court and Criminal Revision petition filed in CrI.RC(MD).No.412 of 2021 is dismissed on

23.11.2022. That the petitioner has not brought out That the petitioner has not brought out new material Under such circumstances, the prosecution cannot ask for review of the earlier order. That there is no new materials in the of supplementary final report to enabled the prosecution to file an application Under Section 216 Crpc. That even in the evidence of IO, there is no material to frame the charge under section 120(B) IPC. That by filing supplementary report prosecution had protracted the trial. That the accused are lingering in the prison for the past 5 years. The alteration of charge will further delay the trial That the prosecution side has not stated when the conspiracy was hatched out, at what place, at what time it was hatched .Hence it is prayed to dismissed the petition.

7. Brief of the Counter filed by A5:-

That the petition is neither maintainable under law and nor under facts. That the learned this Hon'ble Court dropped the section 120(B) of IPC charge after applying its judicial mind to this case. Charges have been framed while taking into account the materials present on records and the trial almost over by examine 52 witnesses. At this stage the prosecution has filed this petition without merit. That onus lies on prosecution to prove charge by cogent evidence, direct or circumstantial evidence. That the prosecution has not established the meeting of mind between A5 Samadurai and other the accused through cogent, direct or circumstantial evidence. Though A1 to A9 were charge sheeted U/s.120(B) IPC, but this Hon'ble Court omitted to frame charge U/s.120(b) IPC on 10.03.2021 as there was no material available to show the alleged criminal conspiracy That there is no material available on the side of prosecution to prove where accused were present where the all accused persons discussed their plan. That evidence of PW-52 IO may not be taken into account to add the above said charge U/s.120(b) IPC. That no new material filed by the prosecution and this petition is filed without any

reason nearly 4 years after framing of charge only cause delay in the proceedings. That no prima-facie case to frame charge U/s.120(b) That no complaint was made to the higher authorities either by the witnesses mentioned in the petition or by the relatives of the deceased. court can exercise this power either on its own motion or based on an application, but if it does so it must follow the prescribed procedure and ensure it does not prejudice the accused. That power to alter or add to a charge rests solely with the court. No party including the prosecution or the accused has right to demand alteration or addition through an application. That this petition is filed at an extraordinary belated stage, after significant evidence had been adduced and it will prejudice the defense of the accused . Therefore pray to dismiss the petition.

8. Brief of the Counter filed by A6:-

That the petition is not maintainable under law. That on reading the provisions of Section 216 Crpc it is clear that no party either the defacto complainant nor accused or prosecution has any vested right to seek any addition or alteration of charge. That the ingredients for the said offence of conspiracy is not established .That for the offence of conspiracy there must be an agreement between two or more persons to do or cause to be done an illegal act or an act which is not illegal by illegal means .That the main ingredient for alleged offence under Section 120B IPC is absent and charge under section 120 B IPC cannot be framed. PW12 and PW13 do not specifically implicated A6 regarding the conspiracy and even evidence of PW44's do not implicate the ingredient for alleged offence under section 120B IPC . PW44's evidence is only relating to A2's overt act and that alone will not constitute the criminal conspiracy. PW11 has not specifically mentioned the names of constables including A6 and he has spoken that the deceased was taken in police vehicle and hence section 120 B IPC will not attract.

The evidence of PW20 reveals that he does not know the alleged incident said to be taken place on 18.06.2020 and he has spoken that A2 took deceased Jeyaraj only for enquiry. PW 26 also has stated that Jeyaraj was taken to police station only for enquiry. evidence of PW 8 Ravisankar, is hear say in nature and no way it is connected with the criminal conspiracy. That to meeting of minds to form criminal conspiracy has to be proved by placing substantive evidence but there is no specific evidence to prove that conspiracy hatched Hence pray to dismiss the petition.

9. Brief of the Counter filed by A7:-

That the nutshell of the prosecution case is that the deceased opened their shop beyond permitted period during COVID-19 and the act of the deceased were questioned that the deceased Jeyaraj scolded the police people which was witnessed by a person namely Gundas Balu, who in turn informed the same to police people. That on 19.06.2020 the deceased Jeyaraj was taken from his shop for enquiry in respect of violation of COVID-19 rules and a case was registered against both the deceased in Crime No. 312 of 2020 for offences under section 188,269,294(a), 353 and 506(2) of Indian Penal Code, 1860 and subsequently they were remanded to judicial custody under a valid order passed by learned Judicial Magistrate, Sathankulam. Since both the under-trial prisoners died, erupted chaos, among public and politicians of opponent party of Tamil nadu agitated and sought for justice to the deceased and thereby attracted the attention of media and newspapers by publishing the death of the two persons on ground of atrocity on the part of police people attached with Sathankulam Police Station. That our Hon'ble High Court of Judicature, Madras Bench had taken this matter Vide Sua Moto Writ Petition (WP)No.7042/2020 and directed CBCID wing, Tamil Nadu to took up the investigation and on 30.06.2020 CBCID had taken investigation of a case registered by Kovilpatti East police Station in Crime No.1 and 2 of 2020 and

altered into Sec.302,341,201 r/w 109 IPC. No material was collected by CBCID to Show that there was a criminal conspiracy hatched by the accused and in pursuance of such conspiracy both the deceased were brutally assaulted and thereby caused their death. Subsequently on 07.07.2020 CBI had taken investigation and after completion of investigation, filed a final report on 25.09.2020 by leveling charges against the accused under section 302,342,201,182,193,211,218 and 34 IPC. After taking cognizance of offences this Hon'ble Court decided to frame the charge except charge under section 120B IPC and case was posted for prosecution evidence. It is pertinent to note that, there was no material to show that all the accused hatched conspiracy. That the prosecution suddenly has emerged with charge of criminal conspiracy against all the accused including accused no.7 by way of filing supplementary final report. That the prosecution has filed a petition under section 216 Crpc sought to add the charge under section 120 B IPC against all the accused upon the flimsy grounds, on 16.10.2025. That additional charge under section 120B against A7 is unnecessary and no prima facie case is made out by the prosecution against A7 and pray to dismiss the petition on the following grounds

Grounds

1. That in para 16:23 in supplementary charge sheet filed by the prosecution stated that “ there was no violation of any lockdown rules by both the deceased “ Such findings given by the Investigating officer is inconsistent with statement of both the deceased to so many witnesses that fortify their illegal act of opening their shop beyond permitted hours on 18.06.2020 and police authority attached with Sathankulam police station had registered a case in Cr.No.312 of 2020 for the illegal act of the deceased on 18.06.2020. The prosecution had stated in para 16:23 of supplementary final report that such case was registered with an object to cover up the act of the commission of offence, which is totally false. The statement of both

the deceased to persons to PW5 and PW17 before their remand and during their detention in sub-jail is relevant under Sec 32(3) IEA and such statement alone is sufficient to falsify the opinion of Investigating Officer stated in Para 16:23.

2. That when the statements of the deceased are relevant under Sec 32(3) IEA, 1872, no question of conspiracy had taken place.

3. That the accused submits that, in general, conspiracy cannot be proved merely on the basis of inference. It has to be backed by evidence. In the present case, there was no specific evidence as to where and when the conspiracy was hatched, what was specific purpose of such conspiracy, the charge of offence of criminal conspiracy could not have been framed against A.7. Further no evidence available on record to prove intention to kill both the deceased and in the absence of such intention there is no need of conspiracy be hatched on the part of the accused.

4. The brief facts of the case is that, there are two victims in the present case, admittedly one of them had taken away from their shop without expectation of the arrival of another deceased to the police station at relevant point of time. More so, the deceased no.1 had voluntarily has gone to the sathankulam police station to enquire about arrest of his father, his arrival is not even imagined or expected by the accused. While so, there is no question of conspiracy to kill both the deceased. The evidence are not sufficient to alter or add charge.

5. That according to criminal jurisprudence, addition or alteration of a charge should not be prejudiced the accused. None of the witnesses had spoken about conspiracy and framing additional charges at this stage would cause prejudice to A7 and it will pave way for retrial under section 216(4) Crpc 1973.

6. That it is significant to note that in para 16:24 it was stated that both the deceased were confined in the police station and main door of it was closed and guarded by accused other than A7 and no whisper about assault made by the A7 and charge for offence under section 120B could not be framed against accused no.7

7. Further, there is no material on record to show that “there is a reasonable ground to believe” conspiracy and that the A7 was also party to such conspiracy and there is no evidence under section 10 of the Indian evidence act,1872.

8. It is necessary on the part of the prosecution to establish “covert act” done by the accused to add charge of criminal conspiracy.

9. That the agreement constituting the criminal offence is not established by the prosecution .

10. That the declaration of the D1 to PW5 Desinguraja and inmate Karuppasamy, PW 17 is essential to consider as to the existence of conspiracy. When the declarations of the D1 is true that registration of FIR of Crime NO.312 of 2020 cannot be claimed as false record or incorrect record by the prosecution .If that case is registered honestly, there is no reason as to why the accused has to hatch conspiracy as alleged in para 16:23 in the supplementary charge sheet,.That the declaration of the deceased is relevant under section 32(3) of IEA and it remains un-contradicted by the prosecution under section 158 IEA, 1872.

11. That there is no material to show that conspiracy was hatched.

12. Hence pray to dismiss the petition.

10. Brief statement of the Counter filed by A8:-

That except that of the averments stated in the petition that are hereby expressly admitted by this accused all others are denied as false. That to add additional charges against A1 to A9 for offence U/s.120-B of IPC and also add the charges against A1,A3 & A6 -U/s.182,193,211,218 of IPC for 2 counts, and against A4- U/s.193 for 2 counts and against A8 U/s.201,302 r/w 34 of IPC for 2 counts petition was filed in this court in CrI.M.P.No.178 of 2021 and it is dismissed on 24-3-2021. in the the Revision Petition filed before the Hon'ble High Court the same was disposed off with for consideration of the trial court. The Respondent has again filed a petition to this Hon'ble Court on the basis of Revision Order but this Hon'ble Court has disposed the petition stating that after completion of trial this court will consider that if it is necessary. Hence after disposal of the petition, the petitioner has no locus standi nor any right to file this petition. Hence the said petition is not maintainable either in law or on merits. That the present petition is not maintainable and devoid of merits and hence liable to be dismissed in limini. That charges were framed on 10.03.2021. and the petitioner has approached this Hon'ble court belatedly Therefore this Hon'ble Court had rightly dismissed the CrI.M.P.No.178/2021, filed by the prosecution U/s.216 of Crpc by order dated 24.03.2021, Hence the present 3rd petition before this Hon'ble Court itself is an abuse of process of law and liable to be dismissed at the very threshold. That there is no material against A8 to frame charges U/s.201,302 and 34 for 2 counts. Hence this Hon'ble Court has rightly dismissed the petition filed by the prosecution U/s.216 of Crpc. It is a settled principle of law that at the stage of framing charges, the court shall only see whether the materials brought on record would reasonably connect the accused with the crime and nothing more shall be inquired into. Where

the court is not satisfied about the prima-facie existence of the factual ingredients to constitute an offence no charge shall be framed for such offence. In the present case, after considering the materials on record submitted by the prosecution, the Hon'ble Court has refused to frame charges U/s.201,302 and 34 IPC for 2 count . That all the judgments and precedents relied upon by the prosecution in the petition would propound that the trial court should frame charges on the basis of documents and materials available on record and that it should not go deep into the probative value of the material on record. .That this petition is filed without an iota of evidence. .If at all criminal conspiracy should have taken place prior to taken the deceased persons from their shops. No materials available to frame charge U/s.120B IPC". That "Conspiracy cannot be assumed from a set of unconnected facts or from a set of conduct at different places and times without a reasonable link". It is further submitted that some kind of physical manifestation of agreement is required to attract the offence of criminal conspiracy U/s.120B of IPC. There is no material to show the presence of an agreement meeting of minds between the accused persons. That this petition is devoid of merit and it is an abuse of process of law. Hence prayed to dismissed the petition. That the 8th accused relied on the decision

a) Mohan Vs.State of Madhya Pradesh (Criminal Appeal No.630 of 2020, arising out of SLP (Crl.No.10460/2019) had held that "Conspiracy cannot be assumed from a set of unconnected facts of from a set of conduct at different places and times without a reasonable link"

b) In Ram Sharan Chaturvedi Vs. The state of Madhya pradesh (Criminal Appeal No.1066 of 2010) has observed that some kind of physical manifestation of agreement is required to attract the offence of criminal conspiracy U/s.120B of IPC.

In the present case, there is no material to show the presence of an agreement the accused persons. Neither there is any material to prove the meeting of minds between the accused persons, which is the ultimate ingredient of criminal conspiracy.

c) P. Krithikalakshmi 13 vs. Sri Ganesh and others) 2013 (3) Madras Weekly Notes (Crl) 521

Alteration or addition of charge is discretion of the court and it is an enabling provision for the court and it can be excersiced before pronouncement of judgment

11. Brief statement of the Counter filed by A9:-

That this petition is filed at the fake end of the trial and there is no material evidence either oral or documentary, to substantiate the proposed charge of conspiracy .That the question of adding a charge would arise only when materials placed on record warranting alteration or adding of a charge. No implicit or explicit evidence, either oral or documentary, has been adduced by the prosecution to postulates that this petitioner/accused had entered into any agreement, understanding or meeting of minds with the other accused persons for committing any illegal act or for causing any illegal omission. That the courts can exercise the power of addition or modification of charges under section 216 Crpc only when there exists some material before the court, which has some connection or link with the charges sought to be amended, added or modified. It held that alteration or addition of a charge must be for an offence made out by the evidence recorded during the course of trial before the court. In the absence of any materials showing the ingredients of new offence, the charge cannot be altered or added. That the prosecution has misconstrued the section 216 of Crpc and filed the petition as it is an enabling provision and left open to the ambit of this Hon'ble court whether to

exercise the power to add a charge or not, and the prosecution has no inherent right under this provision to file a petition. That mere association or presence will not make one a conspirator'. That 'before a person is made liable for conspiracy there must be clear evidence that he agreed to commit an offence and was a party to the plan'. Suspicion however strong, cannot take the place of proof of agreement. That A9 was not present at the scene of occurrence on 18.06.2020, nor was there any evidence to show his participation in the alleged illegal arrest or custodial violence on 19.06.2020. His role was limited to technical duties in first floor of Sathankulam police station, (CCTNS) and he neither participated in any unlawful act nor shared any intention or common object with the other accused. That the prosecutions has placed reliance on expansive and general statements of witnesses, without any specific overt act or communication attributed to this petitioner That 'mere knowledge or discussion about an act is not sufficient; there must be a concerted plan and participation'. That a person cannot be roped in for conspiracy merely because he was part of the same organization or team unless there is cogent evidence of his active participation or meeting of minds'. Section 120 B IPC postulates two key elements - (I) an agreement between two or more persons, and (ii) the object of agreement being to commit an illegal act or a legal act by illegal means. The prosecution has not produced any admissible evidence to prove such agreement or communication between this petitioner and any other accused. That to prove conspiracy, there must be tangible evidence of a plan or concerted action mere inference from vague circumstances cannot form the basis of a charge'. That the petitioner has narrated few depositions of witnesses elaborately but without any substantive legal evidence. None of the prosecution witnesses (PW-11, PW-12, PW-13, PW20, PW-44, PW-52 etc) have deposed about any conversation, meeting, or act linking A9 with the alleged illegal arrest or assault. There is no iota of evidence to frame charges u/s 120 B. That the power under

section 216 Crpc to alter or add a charge must be exercised only when clear materials are available on record indicating a prima-facie case. That this petition is legally untenable either on law nor on facts. Hence pray to dismiss the petition. The 9th accused has relied on the decision reported

a) In State (NCT of Delhi) V. Navjot Sandhu Parliament Attack Case), (2005) 11 SCC 600, the Hon'ble Supreme Court in held that the essence of criminal conspiracy is an agreement to commit an illegal act and in absence of proof of such agreement, mere association or presence will not make one a conspirator'.

b) In Kehar Singh & Others V. State (Delhi Administration), (1988) 3 SCC 609, The Hon'ble Supreme Court has held that 'before a person is made liable for conspiracy there must be clear evidence that he agreed to commit an offence and was a party to the plan'. That suspicion however strong, cannot take the place of proof of agreement.

c) In Esther Singh V. State of A.P (2004) 11 SCC 585, the Hon'ble Supreme Court held that 'mere knowledge or discussion about an act is not sufficient; there must be a concerted plan and participation'.

d) In Paramasivam V. State, 2023 SCC Online SC 425, the Hon'ble Supreme Court in reiterated that 'a person cannot be roped in for conspiracy merely because he was part of the same organization or team unless there is cogent evidence of his active participation or meeting of minds'.

e) In CBI V. V.C.Shukla (1998) 3 SCC 410 the Hon'ble Supreme Court has held that ' to prove conspiracy, there must be tangible evidence of a plan or concerted

action mere inference from vague circumstances cannot form the basis of a charge’.

f) In State of Maharashtra V. Salman Salim khan, (2004) 1 SCC 525). The Hon’ble Supreme Court has held that power under section 216 Crpc to alter or add a charge must be exercised only when clear materials are available on record indicating a prima-facie case

12. Point for consideration:-

Whether additional / alternate charge need to be framed? if so against whom and under what Sections?

Findings for the points for consideration:

13. The learned Public prosecutor has submitted that despite section 120 B,182,193,218 and Section 211 are mentioned in the final report those charges are omitted to be framed and submitted that the evidence of the Pw 8, 12,13,20,26,44,47 and the CCTV footage will clearly reveal the conspiracy and that an agreement to do an illegal act which amounts to a conspiracy will continue as long as the members of the conspiracy remain in agreement and as long as they are acting in accordance with and in furtherance of the object for which they entered into the agreement” that Conspiracies are hatched in secrecy and direct evidence to prove conspiracy is rarely available. That it is not necessary that there should be express proof of the agreement and it has to be inferred from the acts and conduct of the parties by taking into consideration the circumstances before during and after the occurrence had taken place and that for the offence of criminal conspiracy the prosecution need not necessarily prove that the perpetrators expressly agreed to do or cause to be done an illegal act and that agreement for conspiracy may be proved by necessary implication and prayed to frame additional charges and the learned

Public prosecutor apart from the precedents mentioned in the petition has further relied on the decision in Bhima Razu prasad -vs- State rep by Deputy Superintendent of Police, Ram Dhan -vs- State of Uttar Pradesh and another) (2012) 5 SCC 536.

14. A1 has submitted that there is no materials evidence on record in the supplementary charge sheet filed by the CBI for the alleged the charge of criminal conspiracy In the CBCID investigation as well as in the Judicial inquiry the alleged charge of criminal conspiracy are not revealed and established. There is no other direct or indirect evidence to prove conspiracy and there is no reason for the accused to entertain any conspiracy against the deceased . That the prosecution has not examined Gundas Balu and Pw 5 Desinguraja the maternal uncle of Bennicks has deposed that on 19.06.2020 at about 7.45 when Bennicks called him over phone told that his father was taken by police for having opened the shop on the previous day beyond 8 PM permitted during the lock down and to enquire about that police taken his father. That it will amount to dying declaration as per the section 32(1) of Indian Evidence Act and Ex.P68 will clearly establish the conversation between Bennicks with his uncle PW5 from cell phone number 9994068656 to cell phone no.9965479899 for about 96 seconds .That the deposition of PW 30 Thaveedhu PW 17 M.Karupasamy and the 161 Crpc statement of Lw 36 to 38 the inmate Jeyaraj and Bennicks at Sub-Jail Kovilpatti also discloses that” deceased have admitted that the shop was closed belatedly after the permitted hours and that there was a verbal argument between the police and Bennicks and it also will amount to “Dying declaration”. That Bennicks also has shouted at Sub-Inspector calling his caste name. That clearly proves that due to wordy quarrel between the deceased Bennicks and the Sub-Inspector, the occurrence had taken place That the statement of co prisoners Sunil, Lakshman, M.Karuppasamy and

M.Tamilselvan recorded by PW50, and the learned Judicial Magistrate no.I, Kovilpatty on 23.06.2020,26.06.2020 and on 27.06.2020 also corroborates the statements of PW17, LW36, LW38 beyond doubt. That it would be unsafe to act on the testimony of the Pws 12 and 13 .That they are a planted witnesses. That the testimonies of the PW 44 Bealua SelvaKumari PW11, Arivin, PW20, S.Ravichandran, PW26 A.Jeyasekar, PW8 Ravisankar are not sufficient for proving the charge of conspiracy. That as per the CCTV footage MO-23, A1 Sridhar was not in the police vehicle when the deceased Jeyaraj was picked up to the police station and also he did not pickup the deceased Jeyaraj to the police station. That Ex.P.34 is the General Diary of the police station for the date 19.06.2020. Ex.P.35 is the rough duty register. Ex.P.71 call data records (CDR) of cell phone of A1 Sridhar Ex.D4, is the police vehicle diary for the date 19.06.2020 and it will reveal the truth that A1 Sridhar was on night rounds in connection with the corona prevention duty and there is evidence to establish alibi evidence that A1 did not involved in the alleged offence. Hence prayed to dismiss the petition

15. A2 side counsel has submitted that the evidence Pws 8,11,12,13,26,44 and 52 if at all may lead to prove motive but not conspiracy. That there is no circumstance to invoke 120 B of IPC. and hence prayed to dismiss the petition.

16. A3 side counsel has submitted that the conspiracy could not be continuous. and the prosecution admits that Bennicks voluntarily came to the police station after arrival of Jeyaraj. that the conspiracy is alleged to be hatched based on the information of Gundas Balu but he is not examined on the prosecution side and hence adverse inference to be drawn against the prosecution. That even in the evidence of PW 12,13,44,11,20,26,8 and 52 there is no evidence to show the participation by A3 either on 18.06.2020 or on 19.06.2020 PW20 himself has

admitted that when the said Jeyaraj was brought to the station on 19.06.2020 A3 was not physically present in the station or he contacted anyone in respect of any incidents on 18.06.2020. That even while Ex.P.22 and 23 were prepared A3 was not in the station and he did not have any knowledge about the said FIR. This will clearly prove that there was no meeting of mind and no agreement and there is lack of the ingredient of conspiracy as against accused no.3. That the Ex.P.34,35 and 36 also would clearly prove that A3 was not in the station on 18.06.2020 and on 19.06.2020 till the Ex.P.22 and 23 came into existence. That the investigation officer PW 52 has also admitted this .That PW 8,11,12,13 and 26 have admitted that the A3 was not available on 18.06.2020 and there is no meeting of minds or agreement .That earlier application filed by the prosecution in CrI.M.P 178/2021 was dismissed on 24.03.2021 .That with the same set of statements without any strong and cogent materials the petitioner has filed this petition. That adding new charge will amount to new trial which will cause prejudice to the accused and it is barred U/s.300 of Cr.P.C. That the accused is under custody right from 01.07.2020 throughout the trial and in such circumstances adding new charge and ordering for further examination of witnesses definitely will cause prejudice to the individual liberty of the accused That Jeyaraj and Bennicks were send to Judicial Custody on fitness certificate issued by PW 45 and hence the question of conspiracy will not arise. That an offence of conspiracy cannot be deemed to be have been established on mere suspicion and surmises. That there is no cogent evidences and the narration of events and no clear link of chain to show that A3 conspired and prayed to dismiss the petition .

17. A4 side counsel has submitted that the petitioner has not brought out any new material Under this circumstances, the prosecution cannot ask for review of the earlier order. That there is no new materials in the of supplementary final report

and in the evidence of IO, That the prosecution side has not stated when the conspiracy was hatched out and at what place and at what time it was hatched . That the accused are lingering in the prison for the past 5 years and the alteration of charge will further delay the trial and prayed to dismiss the Petition.

18. A5 counsel has submitted that already applying its judicial mind this Court dropped the section 120(B) of IPC and almost evidence is over. That the prosecution has not established the meeting of mind between A5 Samaduai and other the accused through cogent, direct or circumstantial evidences .That the power to alter or add to a charge rests solely with the court and no party including the prosecution or the accused has right to demand alteration or addition through an application and prayed to dismiss the petition.

19. A6 side counsel has submitted that either the defacto complainant nor accused or prosecution has any vested right to seek any addition or alteration of charge. That the ingredients for the said offence of conspiracy is not established .That for the offence of conspiracy there must be an agreement between two or more persons to do or cause to be done an illegal act or an act which is not illegal by illegal means .That the main ingredient for alleged offence under Section 120B IPC is absent and charge under section 120 B IPC cannot be framed. That PW12 and PW13 do not specifically implicated A6 regarding the conspiracy and even evidence of PW44's do not implicate the ingredient for alleged offence under section 120B IPC . That the evidence of PW20 reveals that he does not know the alleged incident said to be taken place on 18.06.2020 and he has spoken that A2 took deceased Jeyaraj only for enquiry. PW 26 also has stated that Jeyaraj was taken to police station only for enquiry. The evidence of PW 8 Ravisankar, is hear say in nature and no way it is connected with the criminal conspiracy. That to meeting of minds to form criminal

conspiracy has to be proved by placing substantive evidence but there is no specific evidence to prove that A6 hatched conspiracy and pray to dismiss the petition .

20. A7 counsel has submitted that the material collected by CBCID dose not reveal any criminal conspiracy and the supplementary final report is filed with an object to cover up the prosecution case and it is totally false. That both the deceased to persons have stated the reason for remand to PW5 and PW17 and they have stated that as there was covid violation they were arrested and it amount to dying declaration and it will disprove the theory of conspiracy .That there is no specific evidence as to where and when the conspiracy was hatched,and what was specific purpose of such conspiracy, that no evidence available on record to prove intention to kill both the deceased and in the absence of such intention there is no need to hatch any conspiracy that Bennicks had voluntarily has gone to the Sathankulam police station to enquire about arrest of his father, his arrival is not even imagined or expected by the accused. While so, question of conspiracy will not arise and framing additional charges at this stage would cause prejudice to A7 and it will pave way for retrial. That there is no whisper about assault made by the A7 and there is no reasonable ground to believe” conspiracy and there is no evidence under section 10 of the Indian evidence and hence pray to dismiss the petition.

21. A8 side counsel has submitted that to add additional charges against A1 to A9 for offence U/s.120-B of IPC and also add the charges against A1,A3 & A6 -U/s.182,193,211,218 of IPC for 2 counts, and against A4- U/s.193 for 2 counts and against A8 U/s.201,302 r/w 34 of IPC for 2 counts petition was filed in this court in CrI.M.P.No.178 of 2021 and it is dismissed on 24-3-2021 and the Revision Petition

filed before the Hon'ble High Court also disposed directing the trial court to consider the matter that the Petitioner again filed a petition on the basis of Revision Order but this Hon'ble Court has disposed the petition stating that after completion of trial this court will consider that if it is necessary Hence after disposal of the petition, the petitioner has no locus-standi nor any right to file this petition. That it is a settled principle of law that at the stage of framing charges, the court shall only see whether the materials brought on record would reasonably connect the accused with the crime and nothing more shall be inquired into. "Conspiracy cannot be assumed from a set of unconnected facts or from a set of conduct at different places and times without a reasonable link". That some kind of physical manifestation of agreement is required to attract the offence of criminal conspiracy U/s.120B of IPC. There is no material to show the presence of an agreement meeting of minds between the accused persons and prayed to dismiss the petition .

22. A9 side counsel has submitted that only when materials placed on record warrants alteration or adding of a charge can be made that there is no implicit or explicit evidence either oral or documentary available on record to frame additional charges and there is no evidence to prove that accused entered into any agreement, understanding or there was meeting of minds for committing any illegal act that mere association or presence will not make one a conspirator'. That 'before a person is made liable for conspiracy there must be clear evidence that he agreed to commit an offence and that he was a party to the plan'. Suspicion however strong, cannot take the place of proof of agreement. That A9 was not present at the scene of occurrence on 18.06.2020, nor there is any evidence to show participation of A9 in the alleged illegal arrest or custodial violence on 19.06.2020 that the role of A9 is very limited and he is attached to technical duties in CCTNS

at the first floor of Sathankulam police station, and he neither participated in any unlawful act nor shared any intention nor he had any common object with the other accused. that based on the general statements of witnesses, without any specific overt act no charge can be framed that for proving conspiracy concerted plan and participation'. is necessary That a person cannot be robed in conspiracy merely because he was part of the same organization or team unless there is tangible evidence as to plan or concerted action mere inference from vague circumstances cannot form the basis of a charge'. that the evidence of PW-11,PW-12, PW-13, PW20, PW-44, PW-52 has not spell out any conversation, meeting, or act linking A9 with the alleged illegal arrest or assault. Hence prayed to dismiss the petition

23. The defense side further relied on the decision in MD.Makbood Vs. State of Bihar , 1987 AIR 955, Param Hans Yadav & Sadanand Tripathi -vs- State of Bihar & Ors, Sriram Chandra Sekar @ chindhu Vs. The state of Andrapradesh and Devendrakumar -vs- State (NCT of Delhi and others) 2025 (3) MWN (Cr.) 39 (SC), M.Rajkumar Vs. State, R.Solairaj Vs.State , P.K. Narayanan Vs. State of kerala, Annaporan verehara & another Vs. State of Odisha, State of punjab Vs. Rajsingh, Jeevanantham and others Vs. State represented by Inspector of police velayuthampalayam Police station,

24. In (Bhima Razu prasad -vs- State rep by Deputy Superintendent of Police) the Hon'ble Supreme court of India has held that

Section 195(1)(b)(i), Cr.P.C., will not bar prosecution by the investigating agency for offence punishable under section 193 IPC which is committed during the stage of investigation. This is provided that the investigating agency has lodged complaint or registered the case under section 193, IPC prior to commencement of

proceedings and production of such evidence before the trial court. In such circumstance, the same would not be considered an offence committed in, or relation to, any proceeding in any court for the purpose of section 195(1)(b)(i), Cr.P.C.,

25. In (2012) 5 SCC 536: (2012) 3 SCC (Cri) 237: 2012 SCC Online SC 336 (Ram Dhan -vs- State of Uttar Pradesh and another) the Hon'ble Supreme Court of India has held that Section 195 IPC makes the fabrication of false evidence punishable. It is not necessary that the fabrication of false evidence takes place only inside the court as it can also be fabricated outside the court though has been used in the court. Therefore, it may also not attract the provisions of Section 195 Cr.P.C.,

26. MD.Makbood Vs. State of Bihar the Hon'ble Patna High Court has held that Sec.216 Crpc can be invoked suo moto or on application on parties concerned. However power U/s.216 Crpc is exclusively to the concerned court and no party can seek such addition or deletion as a matter of right by filing an application

27. In 1987 AIR 955, (Param Hans Yadav & Sadanand Tripathi -vs- State of Bihar & Ors on 25 February, 1987) has held that, Where the prosecution relies upon circumstantial evidence to support the charge of conspiracy, clear link has to be established and the chain has to be complete, otherwise it would indeed be hazardous to accept a part of the link as the complete one. On the basis of such incomplete circumstantial evidence, the allegation of conspiracy cannot be accepted.

28. In Sriram Chandra Sekar @ chindhu Vs. The state of Andrapradesh the Hon'ble High Court of Andrapradesh at Amaravathy in para 17 has held that Sec

216 confers exclusively right on the court to alter the charge at any time before pronouncement the judgment ,But it does not give scope either to prosecution or to the accused to seek alteration of a charge or addition of new charge and file an application with the prayer to invoke the provision of sec 216 of Crpc .

29. In 2025 (3) MWN (Cr.) 39 (SC) (Devendrakumar -vs- State (NCT of Delhi) and others) the Hon'ble Supreme Court of India has held that

(i) Section 195(1)(a)(i) of the code of criminal procedure bars the court from taking cognizance of any offence punishable under sections 172 to 188 respectively of the Indian Penal Code, unless there is a Written complaint by the Public Servant concerned or his Administrative Superior, for voluntarily obstructing the Public Servant from discharge of his Public functions. Without a complaint from the said persons, the court would lack competence to take cognizance in certain types of offences enumerated therein;

(ii) If in truth and substance, an offence falls in the category of Section 195(1)(a)(i), it is not open to the court to undertake the exercise of splitting them up and proceeding further against the accused for the other distinct offences disclosed in the same set of facts. However, it also cannot be laid down as a straitjacket formula that the court, under all circumstances, cannot undertake the exercise of splitting up. It would depend upon the facts of each case, the nature of allegations and the materials on record;

(iii) Severance of distinct offences is not permissible when it would effectively circumvent the protection afforded by Section 195(1) (a) (i) of the code of criminal procedure, which requires a complaint by a public servant for certain offences against public justice. This means that if the core of the offence falls under the purview of section 195(1)(a)(i), it cannot be prosecuted by simply filing a general complaint for a different, but related, offence. The focus should be on

whether the facts, in substance, constitute an offence requiring a public servant's Complaint;

(iv) In the aforesaid context, the courts must apply twin tests. First, the courts must ascertain having regard to the nature of the allegations made in the complaint/FIR and other materials on record whether the other distinct offences not covered by section 195(1)(a)(i) have been invoked only with a view to evade the mandatory bar of section 195 of the Indian Penal code and secondly, whether the facts primarily and essentially disclose an offence for which a complaint of the court or a public servant is required;

(v) Where an accused is alleged to have committed some offences, which are separate and distinct from those contained in section 195, Section 195 will affect only the offences mentioned therein. However, the court should ascertain whether such offences form an integral part and are so intrinsically connected so as to amount to offences committed as a part of the same transaction, in which case the other offences also would fall within the ambit of Section 195 of the code of criminal procedure. This would all depend on the facts of each case; and

(vi) Section 195 (1)(b)(i)(ii) & (iii) & 340 of the code of criminal procedure respectively do not control or circumscribe the power of the police to investigate, under the code of criminal procedure. Once investigation is completed then the embargo in section 195 would come into play and the court would not be competent to take cognizance. However, that court could then file a complaint for the offence on the basis of the FIR and the material collected during investigation, provided the procedure laid down in section 340 of the code of criminal procedure is followed.

30. In *M.Rajkumar Vs. State*, it has been held by the Hon'ble Madras High Court imagination or imaginary possibilities have no roll to prove the guilty of the

accused. The evidence should established complete and unbroken chain of events. Merely because the case acquired a character of sensationalism and became sensational this court cannot shrink its responsibility in searching for legal evidence. The court cannot record of finding merely based on imaginary possibilities in the evidence of the prosecution.

31. In *R.Solairaj Vs.State* , it has been held by the Hon'ble Madurai Bench of Madras High Court that Sec 216 Crpc petition dismissed on very same set of allegation on the strength of deposition of PW 1 and 2 prosecution did not prefer appeal. It is prove that trial court can alter or add any charge before passing judgment. Trial already completed and entire defense has been exposed by the accused person adding new charge on the side existing materials will amount to new trial which is fall U/s.300 Crpc.

32. In *P.K. Narayanan Vs. State of kerala*, 1995 SCC (1) 142

It has been held that an offense of conspiracy cannot deemed to have been established on mere suspicion and surmises or inferences which are not supported by cogent evidence.

33. In *Annaporan verehara & another Vs. State of Odisha*, the Hon'ble Cuttack Bench of Orissa High Court it has been held that when no sufficient material available charge could not be framed and when the Hon'ble Hogh Court has directed to dispose the case within 4 months adding new charges at this stage will give rise to denovo trial.

34. *State of Punjab Vs. Rajsingh*, and another the Hon'ble Supreme Court has held that the statuary power of the police to investigate under the court is not in any

way control or circumscribed by Sec 193 Crpc that on the completion of investigation into such an offence the Court would not be competent to take cognizance there of in view of the embargo of Section 195(1) (b) Crpc, but nothing therein deters the court from filing a complaint for the offence on the basis of the FIR (filed by the aggrieved private party) and the materials collected during investigation, provided it forms the requisite opinion and follows the procedure laid down in the Sec 340 Crpc

35. **Jeevanantham and others Vs. State represented by Inspector of police velayuthampalayam Police station, 2018 2 LW (Crl) 606** It has been held by the **Hon'ble Madurai Bench of Madras High Court** that a police a cannot register an FIR for any offence falling U/s.172 to 188

36. From the decisions cited above it becomes clear that Sec 216 of Crpc can be invoked at any stage before judgment but the prosecution cannot claim to frame charge as a matter of right. However on perusal of the order of our Hon'ble Madurai Bench of Madras High Court in CRL.RC(MD).No.412/2021 dated 23.11.2022 it appears that to add the additional charges U/s.120(b) against the all the accused and also to frame charges against A1 U/s.182,193,211,218 IPC (for 2 counts) and against A3 U/s.182,193,211,218 IPC (for 2 counts) and against A4 U/s.193 (for 2 counts) and against A6 U/s.182,193,211,218 IPC (for 2 counts) and against A8 U/s.201,302 r/w 34 IPC (for 2 counts) the petitioner /complainant (CBI) had already filed Crmp.178/2021 and it had been dismissed on 24.03.2021 and against that order CBI had filed the above said revision in Crl.RC(MD).No.412/2021 and in that the Hon'ble Madurai Bench of Madras High Court has partly allowed that petition stating not only prosecution even victim or complainant got every right to maintain such petition for aiding or helping the

court and has held that in the light of the supplementary final report filed by the prosecution side it is the duty of the court to find out and decide whether any official charge or alteration charges are required.

37. In MD.Makbood Vs. State of Bihar the Hon'ble Patna High Court has held that Sec.216 Crpc can be invoked suo moto or on application on parties concerned. However power U/s.216 Crpc is exclusively to the concerned court and no party can seek such addition or deletion as a matter of right by filing an application. Therefore irrespective of the application of the petitioner it becomes the duty of the court to look into whether any charges omitted to be framed.

38. From the decisions cited earlier it becomes very clear that conspiracy is generally alleged in secrecy and hence hardly there will be any direct evidence and hence the court cannot at all time expect direct evidence regarding conspiracy but at the same time prosecution has to bring out at least from the circumstantial evidence that there exist sufficient material for the court to believe that conspiracy exists.

39. Conspiracy may either be for commission of an offence or commission of an act which is illegal or an act which is legal but by illegal means. Further if conspiracy is to commit an offence punishable for 2 years and above then it is punishable under section 120B(1). On the other hand if the conspiracy is to commit an act which is illegal or an act which is legal but by illegal means it must be further proved that some act is done in furtherance of the said conspiracy. Further when the conspiracy is to commit an act which is illegal or an act which is legal but by illegal means or the conspiracy is for an committing offence punishable below 2 years it is punishable under section 120 B (2).

40. Therefore it has to be brought out by the prosecution precisely as to whether the conspiracy is to commit an act or an offence. Further what act or offence accused intended to be committed.

41. Further the object of framing charge is to furnish to the accused, the details, with which he he is charged so as to enable him to put forth his defense. Therefore for the purpose of framing charge for conspiracy first the prosecution shall bring out on record (though need not by direct evidence but at least through) some circumstantial evidence, as to the time between which the meeting of mind taken place to form an unholy agreement and who are all the accused between the meeting of the mind taken place and the place where the meeting of mind taken place . Without those necessary particulars framing charge would be a futile exercise and Un-meaningful . But on the prosecution side in the final report though it has been mentioned that accused acted in pursuance of the conspiracy nothing more revealed specifically as to the time between which the meeting of mind taken place to form an unholy agreement and who are all the accused between the meeting of the mind taken place and the place where the meeting of mind taken place and what act or offence they agreed to commit .

42. That, according to the prosecution case , on 18-6-20 Jeyaraj spoke adversely against police and this was conveyed by Gundas Balu @ Balakrishnan to the Accused and hence they entered in to conspiracy against Jeyaraj and Bennicks.

43. But for the reason best known to the prosecution the said Gundas Balu is not examined on the prosecution side and no explanation submitted by the prosecution for non examination of Gundas Balu.

44. Further as per the evidence of Pw 26 the driver of A1 it appears that, on 19-6-2020 A1 went to several places and finally he has come by Police Jeep to Vandimarichiamman temple near the Bennicks shop on 19-6-20 at about 7.30 Pm and that on the way Murugan has boarded in the Jeep and from the evidence of Pw-11 it appears that after they came to the spot they had conducted vehicle search and they had enquired about who is the person commented against the police on the previous day .This clearly shows that when the accused A1, A2,A6 came to the vandimarichiamman temple near the deceased Bennicks mobile shop they were not aware of who Jeyaraj is and who Bennicks is.

45. Further according to the prosecution evidence the accused have picked up only Jeyaraj in the Jeep and Bennicks has voluntarily gone to police station and further events have taken place one by one on the spur of the moment. Under this circumstances common intention may be inferred as it may arise on the spot in a spur of the moment but it is very hard to believe that there were preplan to commit the act one by one. Under this circumstances this court finds that the evidence on record are insufficient to frame charges and a vague charge could not be framed for conspiracy based on mere assumption or surmises.

46. On perusal of the section 195 (i) Crpc it is explicitly clear that No court can take cognizance for offence, abetment, attempt or conspiracy under section 182 to 188(inclusive of both section) except on the complaint in writing of the public servant concerned or of some other public servant to whom he is administratively subordinate.

47. That on perusal of record it appears that against the order of framing of charges further a revision is filed by A3 before the Honourable Madurai Bench of

Madras High Court in CrI RC(MD).No.274/2021 and CrI.MP.MD.No.2735/2021 wherein the Hon'ble Madurai Bench of Madras High Court by the order dated 03.09.2021 has held that the offence U/s.188 IPC is not made out in this case. In this regard the learned public prosecutor has submitted that A3 actually filed an application for discharge in respect of offence U/s. 211 and 218 IPC but the Hon'ble High Court has held that section 182 alone not made out and partly allowed that application and submitted that it has been by mistakenly typed as sec 188 instead of section 182 IPC and submitted that by that order the Honourable Madurai Bench of Madras High Court has not discharged the accused under U/s. 211 and 218 IPC and prayed to frame charges under 211 and 218

48. In Jeevanantham and others Vs. State represented by Inspector of police velayuthampalayam Police station our Hon'ble High Court has held that a police a cannot register an FIR for any offence falling U/s.172 to 188. Further in 2018 2 LW (CrI) 606 Devendrakumar -vs- State (NCT of Delhi) and others it has been held by the Hon'ble Supreme Court that Section 195(1)(a)(i) of the code of criminal procedure bars the court from taking cognizance of any offence punishable under sections 172 to 188 respectively of the Indian Penal Code, unless there is a Written complaint by the Public Servant concerned or his Administrative Superior, for voluntarily obstructing the Public Servant from discharge of his Public functions. In this case it could be understood that according to the prosecution case accused themselves being public officers who are said to have committed the offence under section 182 IPC no one can except that they will make any complaint against themselves under section 182 IPC ,But as per section 195 (1) of crpc atleast the superior officers to the accused should have made complaint to take cognizance for an offence under section 182 IPC But no such complaint is reported to have been made in this case .Under this circumstances this court is of the view that charge

under section 182 could not be framed without application under section 195 (1) Crpc.

49. As per Sec 195 (i) (b) (i) for any offence punishable under sections [193](#) to [196](#) (both inclusive), [199](#), [200](#), [205](#) to [211](#) (both inclusive) and [228](#), when such offence is alleged to have been committed in, or in relation to, any proceeding in any Court, or (iii) for abetment or attempt or conspiracy except on the complaint in writing of that Court or by such officer of the Court as that Court may authorise in writing in this behalf, or of some other Court to which that Court is subordinate.

50. In this aspect the learned public prosecutor has relied on the decision in Ram Dhan -vs- State of Uttar Pradesh and another and Bhima Razu prasad -vs- State rep by Deputy Superintendent of Police and submitted that if the offence takes place out side the court section 195 crpc will not get attracted and when 195 crpc dose not get attract the question of complaint under section 195 crpc will not arise . The learned defense counsel has submitted that even if offense takes place out side the court police only can investigate and based on the FIR and the investigation material court has to give the complaint. and he relied on the decision reported in Devendrakumar -vs- State (NCT of Delhi) and others

51. In the summary in clause (vi) of the Judgment in Devendrakumar -vs- State (NCT of Delhi) and others the Hnourable supreme court has held that Section 195 (1)(b)(i)(ii) & (iii) & 340 of the code of criminal procedure respectively do not control or circumscribe the power of the police to investigate, under the code of criminal procedure. Once investigation is completed then the embargo in section 195 would come into play and the court would not be competent to take cognizance. However, that court could then file a complaint for the offence on the basis of the

FIR and the material collected during investigation, provided the procedure laid down in section 340 of the code of criminal procedure is followed.

52. But in Ram Dhan -vs- State of Uttar Pradesh and another (2012) 5 SCC 536: (2012) 3 SCC (Cri) 237: 2012 SCC Online SC 336 the Hon'ble Supreme Court of India has held that Section 195 IPC makes the fabrication of false evidence punishable. It is not necessary that the fabrication of false evidence takes place only inside the court as it can also be fabricated outside the court though has been used in the court. Therefore, it may also not attract the provisions of Section 195 Cr.P.C., (See Sachida Nand Singh v. State of Bihar).

53. Further in (Bhima Razu prasad -vs- State rep by Deputy Superintendent of Police) the Hon'ble Supreme court of India has held that

Section 195(1)(b)(i), Cr.P.C., will not bar prosecution by the investigating agency for offence punishable under section 193 IPC which is committed during the stage of investigation. This is provided that the investigating agency has lodged complaint or registered the case under section 193, IPC prior to commencement of proceedings and production of such evidence before the trial court. In such circumstance, the same would not be considered an offence committed in, or relation to, any proceeding in any court for the purpose of section 195(1)(b)(i), Cr.P.C.,

54. In Sachida Nand Singh and Anr. v. State of Bihar (1998) 2 SCC 493. the Honourable supreme court has held that where forgery of document taken place before the document was filed before the court complaint of the court under section 195 (ii) is not necessary.

55. From the Combined reading of the precedents cited by both sides it appears that when the offence is committed outside the court bar under section 195 will not get attracted and that even if section 195 get attracted there is no impediment for investigation but where the offence is committed in the court or in connection with the proceeding before it falling within 195 Crpc, then after the investigation based on FIR and collected materials the court has to file complaint and the complaint of the court is necessary only when offence take place in the court or in relation to a proceedings before that court. In this case the FIR said to be filed with false facts and the 161 Crpc statements relating to it and the rough sketch and observation mahazar relating to it are said to be created at the police station at that time no proceeding is pending before the court and it has been created outside the court at the police station. Therefore this court finds that Sec 195 Crpc bar is not attracted to the facts of this case.

56. Further, due to the death of Jeyaraj and Bennicks naturally the case filed against them will get abated and there will be no scope for the Judicial Magistrate Sathankulam to find out the truth to make a complaint. Under the circumstances an aggrieved person cannot be left remediless.

57. Further in this case already charges framed against A3 for offence under section 193 211 and 218 IPC and against A4 under section 211 and 218 IPC. The Honourable Madurai Bench of Madras High court High Court in Crl RC(MD).No.274/2021 and Crl.MP.MD.No.2735/2021 dated 03.09.2021 also has already refused to quash the charges against A3 under section 211 and 218 .

58. Therefore this court finds that according to the facts and circumstances alleged in this case for the offence alleged under Section 193 ,211 , 201 and 218 being taken

place outside the court and destruction of evidence said to have taken place outside the court and that the Honourable Madurai Bench of Madras High Court High Court in CrI RC(MD).No.274/2021 and CrI.MP.MD.No.2735/2021 dated 03.09.2021 also has already refused to quash the charges against A3 under section 211 and 218 this court finds that based on material necessary charges may be framed under Section 193 ,211 ,201 and 218 .

59. As per the allegation of prosecution A1 A3 A4 A6 intentionally prepared false complaint and FIR that on the instruction of A1 A4 has created false complaint and A6 attested it and A3 registered the false FIR against Jeyaraj and Bennicks to save all the accused to escape from punishment. Further anyone know very well that filing false complaint will injure the reputation of the person against whom it is made. The signature of A3 in the complaint and the signature of A6 in the complaint and the fact that arrest made by A3 and 161 statement said to be recorded by A3 relating to Cr.No.312/2020 of Sathankulam police station has not been denied. Revathy and Beaula Selva Kumari has also given evidence in this regard they have identified the signatures of A3,A4,A6. Further A1 is said to have made over the investigation of the case to A3 and hence this court finds that based on available evidence additional charge has to be framed against A1 A6 under section 211 r/w 34 , 218 r/w 34 and the charges under section 211. 218 framed against A3 ,A4 u/s 211 and 218 has to be altered to 211 r/w 34, 218 r/w 34 .

60. There is no averment against other accused as to whether they instigated , abetted or actually engaged in the offence under section 193,211,218.Under this circumstances this court finds that without specific allegation the mere argument of the public prosecutor is not sufficient to frame additional charges against A2,A5.A7,A8,A9 under section 193, 211 and 218 .

61. Once ingredients for offence under section 191 and 192 is made out the court has to see whether it fits in to 194 or 195 only if it dose not fit in with Section 194 or 195 then the charge has to framed under section 193 . In this case the FIR said to be filed falsely against Jeyaraj and Bennicks to get them conviction under section 188, 353, 294(b) ,506(2) 269 IPC .The maximum punishment prescribed for the offence is 7 years and hence this case will fit in to 195 IPC . Hence this court finds that additional charges has to be framed against A1 A4 A6 195 R/w34 IPC and the charge framed against A3 U/S 193 has to be altered to 195 R/w34 IPC

62. The destruction of evidence also said to have taken place at the Sathankulam police station and at Sathankulam G.H and not at court. A8 is said to be working in the computer section . The CCTV footage also alleged to have been destroyed by setting the system to delete automatically after a day. As the accused have acted with common intention this court of the view additional charge has to be framed against A8 U/s.201 (2 counts) and the charges already framed against A1 to A7 and A9 has to be altered to U/s.201 (2 counts) IPC

63. A8 is said to have aided in beating the Jeyaraj and that the gate of the police station was closed and A8 was guarding out side while the beating was going on and there by he has aided the beating of Jeyaraj and Bennicks. But A8 is charged for one count under section 302 r/w 109 . Hence this court is of the view that A 8 has to be charged with offence under section 302 r/w 109 r/w 114 (for 2 counts) and under section 201 apart from the charge already framed under section 342 (2Counts)IPC .

64. A1 is said to have instigated the beating stating that என்ன முருகா என்ன பாலா சத்தம் கேட்கல and facilitated the further beating by other accused. U/s.221 Crpc it

has been mentioned that from the single act or series of act, if it is doubtful which of the several offences the fact which can be proved will constitute the accused may be charged with having committed or all any of such offences and any number of charges may be tried at once or may be charged in the alternate with having committed someone of the said offence. As A1 also is said to have taken Jeyaraj to the police station and he had been there while Jeyaraj and Bennicks were beaten up and he had given instruction to close the door of the police station and to beat Jeyaraj and Bennicks and it appears that the offence falls both under section 34 and 109 IPC this court finds that A1 has to be further charged with Section 302 r/w 109 r/w 114 in alternative with 302 r/w 34 (2 counts) and in addition with section 195 r/w 34, 211 r/w 34 ,218 r/w 34 , 211r/w 34 apart from other charges already framed under section 342 (2counts) and 201 IPC.

65. Therefore for the reasons stated above from the materials available on record this court finds that,

a) For A1 the charge 302 r/w 34 (2 counts) has to be charged in the alternative with Section 302 r/w 109 r/w 114 Ipc (2 counts) and additional charges under section 195 r/w 34(2 counts), 211 r/w 34 (2 counts) ,218 r/w 34 (2 counts), has to be framed apart from other charges already framed under section 342 (2counts) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

b) For A3 charge framed U/s 193 has to be altered to 195 R/w 34 Ipc (2 counts) and charges framed 211and 218 has to altered to U/s 211 r/w 34 (2counts) , 218 r/w 34 (2counts) apart from already framed charges U/s ,182 , 302r/w 34 IPC (2counts) , 342 (2 counts) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

c) For A4 additional charge has to be framed under 195 r/w 34 (2counts) apart from the charges already framed under Section 342 (2counts) , 302r/w 34 IPC (2counts) and the charges already framed against A4 u/s 211 and 218 has to be altered to 211 r/w 34 IPC (2 counts) 218 r/w 34 (2 counts) IPC, and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

d) For A 6 the charges framed u/s 211 and 218 has to be altered to 211 r/w 34 IPC (2 counts), 218 r/w 34 (2 counts) IPC, and additional charge has to be framed under section 195 R/w 34(2 counts) IPC apart from the charged already framed under 342 (2counts), ,302r/w 34 IPC (2counts) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

e) For A 8 charge u/s 302 r/w 109 has to be altered to 302 r/w 109 r/w 114 IPC (for 2 counts) and additional charge u/s section 201 (2 counts) IPC has to be framed apart from the charge already framed u/s 342 (2 Counts)

f) The charges framed against A2, A5, A7 and A9 U/s.201 IPC has to be altered to U/.s201 (2 counts) and regarding the remaining relief claimed in this petition this petition deserves to be dismissed Point for consideration is answered accordingly

It is clarified that apart from charges added and altered and alternate charges framed the other charges shall continue to remain.

In the result this petition is partly allowed and this court find that,

a) For A1 the charge 302 r/w 34 (2 counts) has to be charged in the alternative with Section 302 r/w 109 r/w 114 Ipc (2 counts) and additional charges under section 195 r/w 34(2 counts), 211 r/w 34 (2 counts) ,218 r/w 34 (2 counts), has to be

framed apart from other charges already framed under section 342 (2counts) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

b) For A3 charge framed U/s 193 has to be altered to 195 R/w 34 IPC (2 counts) and charges framed 211and 218 has to altered to U/s 211 r/w 34 (2counts) , 218 r/w 34 (2counts) apart from already framed charges U/s ,182 , 302r/w 34 IPC (2counts) , 342 (2 counts) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

c) For A4 additional charge has to be framed under 195 r/w 34 (2counts) apart from the charges already framed under Section 342 (2counts) , 302r/w 34 IPC (2counts)) and the charges already framed against A4 u/s 211 and 218 has to be altered to 211 r/w 34 IPC (2 counts) 218 r/w 34 (2 counts) IPC, and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

d) For A 6 the charges framed u/s 211 and 218 has to be altered to 211 r/w 34 IPC (2 counts), 218 r/w 34 (2 counts) IPC, and additional charge has to be framed under section 195 R/w 34(2 counts) IPC apart from the charged already framed under 342 (2counts), ,302r/w 34 IPC (2counts)) and the already framed charge U/s.201 IPC has to be altered to 201 IPC (2 counts)

e) For A 8 charge u/s 302 r/w 109 has to be altered to 302 r/w 109 r/w 114 IPC (for 2 counts) and additional charge u/s section 201 (2 counts) IPC has to be framed apart from the charge already framed u/s 342 (2 Counts))

f) The charges framed against A2, A5, A7 and A9 U/s.201 IPC has to be altered to U/.s 201 (2 counts)

and regarding the remaining relief claimed in this petition, this petition is dismissed.

This order is dictated by me to the stenographer and directly typed by her in the computer printed out, corrected, signed and delivered by me in the open court on 25.11.2025.

MUTHUKUMARAN
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MUTHUKUMARAN
Date: 2025.11.25
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**I Additional District and Sessions Judge,
Madurai**

No documents on both side

No evidence on both side

MUTHUKUMARAN
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**I Additional District and Sessions Judge,
Madurai**