



Crl.O.P(MD).No.3008 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.THARANI

Crl.O.P(MD).No.3008 of 2021

Pradeepan

...Petitioner

Vs

1.The State represented by its,
The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
(Crime No.788 of 2017)

2.V.Mohan

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying this Court to call for the records in relating to the impugned FIR in Crime No.788 of 2017 on the file of the 1st respondent police and to quash the same in so far as the petitioner is concerned.

For Petitioner

: Mr.M.S.Jeykarthik

For 1st Respondent

: Mrs.M.Aasha

Government Advocate (Crl. Side)

ORDER

This petition is filed to quash the FIR in Crime No.788 of 2017, on the file of the first respondent.



2.The case against the petitioner is that the defacto complainant who was the Inspector of Police, lodged a complaint before the first respondent stating that on the event of honoring freedom fighter Kuyili on her Memorial day I.e. on 30.09.2017, the petitioner and other accused persons gathered and created public nuisance by rising slogans. Hence, the respondent Police registered a case against the petitioner and others in Crime No.788 of 2017 under Section 143 and 188 of IPC.

3.On the side of the petitioner, it is stated that the petitioner did not commit any offence as alleged by the respondents. In order to incriminate the petitioner, his name was included in the FIR. No minimum requirement of law is followed by the respondents before registering FIR.

4.On the side of the petitioner, it is further stated that no offence was made out as against the petitioner. The respondent Police has no power to register a FIR under Section 188 of I.P.C., and the Section 188 of I.P.C., is not made out. The respondent police have power under Section 41 of Cr.P.C., for maintaining public peace, but, they have no power to register FIR under Section 143 and 188 of IPC. To substantiate the claim, a judgment of this Court in the case of *Jeevanandham and others v. State* reported in **2018 -2- L.w. (Crl.) 606** is cited.



Crl.O.P(MD).No.3008 of 2021

WEB COPY

5.On the side of the first respondent, it is stated that the petitioner and their friends raised slogans and hence, a case under Sections 143 and 188 of IPC was registered against the petitioner.

6.It is seen that Section 188 of IPC is not cognizable offence and a prior sanction is necessary. However, no such prior sanction was obtained by the police to register the case under Section 188 of IPC.

7.It is seen that except that the petitioner raised slogans, no other allegation was raised against him. Hence, a case under Section 143 of IPC is not maintainable.

8.For the above reasons, it is decided that this is a fit case to be quashed. Hence, this Criminal Original Petition is **allowed** and the case in Crime No.788 of 2017 is hereby quashed.

23.03.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
Mrn



WEB COPY



Crl.O.P(MD).No.3008 of 2021

R. THARANI,J.

Mrn

To

- 1.The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P(MD).No.3008 of 2021

23.03.2023