

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.02.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

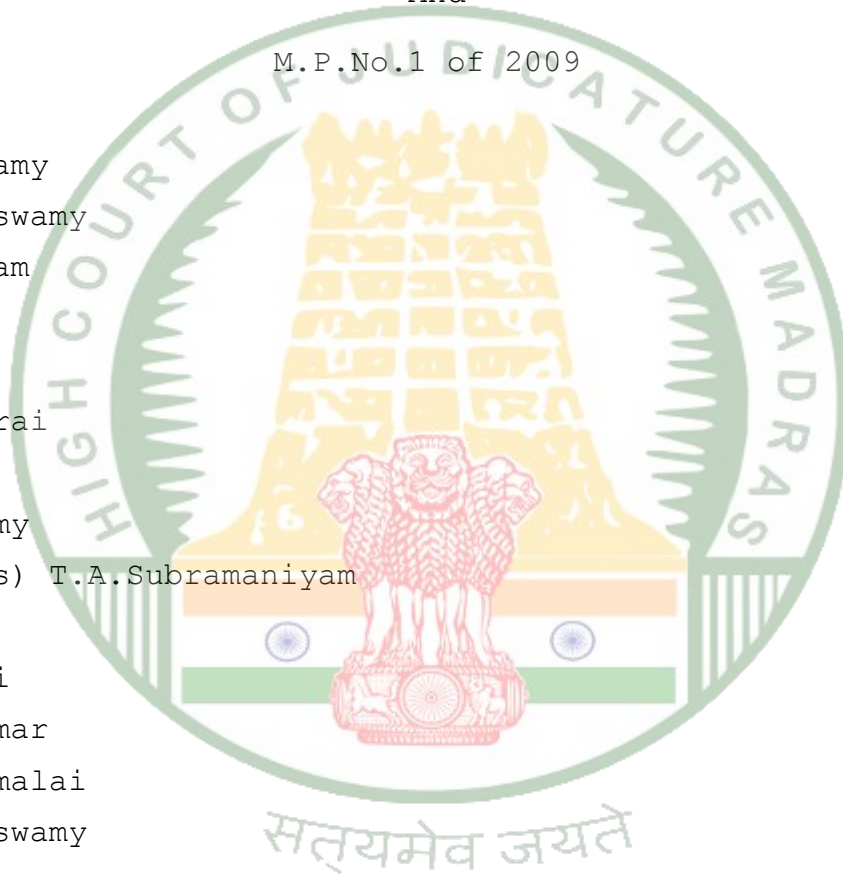
Cr1.O.P.No.13251 of 2009

And

M.P.No.1 of 2009

- 1.V.Palaniswamy
- 2.V.K.Chinnaswamy
- 3.Chidhambaram
- 4.Ramaswamy
- 5.M.Ravi
- 6.P.P.Annadurai
- 7.Ramaswamy
- 8.K.R.Velusamy
- 9.Mani (Alias) T.A.Subramaniyam
- 10.S.Eswaran
- 11.G.K.Murthi
- 12.Senthilkumar
- 13.K.A.Sivanmalai
- 14.V.M.Duraiswamy
- 15.Jayasekaran
- 16.Mr.Vasthu (Alias) Palaniswamy
- 17.P.K.Sivanathan
- 18.Sakthi Shanmugam
- 19.V.R.Subramanian
- 20.K.G.Gopal (Alias) K.G

... Petitioners



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Vs.

The Inspector of Police,
Panjai Puliam Patti Police Station,
Sathiyamangalam,
Erode District.

... Respondent

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records and quash the criminal proceedings initiated by the learned Judicial Magistrate, Sathiyamangalam in C.C.No.39 of 2008.

For Petitioners : Mr.S.Kamadevan

For Respondent : Mr.M.Maharaja
Additional Public Prosecutor

ORDER

This petition is filed to quash the charge sheet in C.C.No.39 of 2008 on the file of the learned Judicial Magistrate, Sathiyamangalam.

2.It is submitted by the learned counsel for the petitioners that the petitioners were charge sheeted for offences under Sections 147, 148, 188, 285 of I.P.C. read with 7(1)(a) CLA Act and altered into Sections 143, 188 and 285 of I.P.C. The learned counsel submitted that under Section 195 of Cr.P.C., offence punishable under Section 188 shall not be taken cognizance by a court except on a complaint in writing of the public servant concerned or some other public servant to whom he is administratively subordinate.

3.In this case, a criminal case was registered in Crime No.157 of 2007 on the file of Panjai Puliam Patti Police Station for the offences under Sections 147, 148, 188, 285 of I.P.C. read with 7(1)(a) CLA Act and after investigation, charge sheet was filed for offences under Sections 143, 188 and 285 of I.P.C. He therefore submitted that no court shall take cognizance of the offence punishable under Section 188 of I.P.C. except by private complaint given by officer concerned and therefore, the charge sheet filed by the respondent police is not maintainable and pleaded upon the judgment reported in (2004) M.L.J. (Cr1.) 633 (K.C.Palanisamy and others Vs. State represented by Inspector of Police, City Crime Branch, Coimbatore).

4.Heard the learned Additional Public Prosecutor appearing for the respondent and he also submitted that as per Section 195 of Cr.P.C., a complaint can be filed only by a public servant and police cannot file a charge sheet for the offence punishable under Section 188 of I.P.C. and read with Section 195 of Cr.P.C. He further submitted that no court shall take cognizance as stated therein except on a complaint given by a public servant concerned.

5.Admittedly, in this case, on the basis of the complaint given, police enquired, investigated and filed charge sheet and therefore, the Court should not have taken cognizance of the charge sheet filed by the respondent police. In the decision reported in (2004) M.L.J. (Crl.) 633 (K.C.Palanisamy and others Vs. State represented by Inspector of Police, City Crime Branch, Coimbatore), the said law has been discussed and held that the final report filed by the police in respect of section 188 of I.P.C. is not maintainable. Hence, the lower court ought not to have taken cognizance of the charge sheet filed by the respondent police.

6.In the result, this criminal original petition is allowed and the complaint in charge sheet in C.C.No.39 of 2008 on the file of the learned Judicial Magistrate, Sathiyamangalam is quashed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1.The Inspector of Police,
Panjai Puliam Patti Police Station,
Sathiyamangalam,
Erode District.

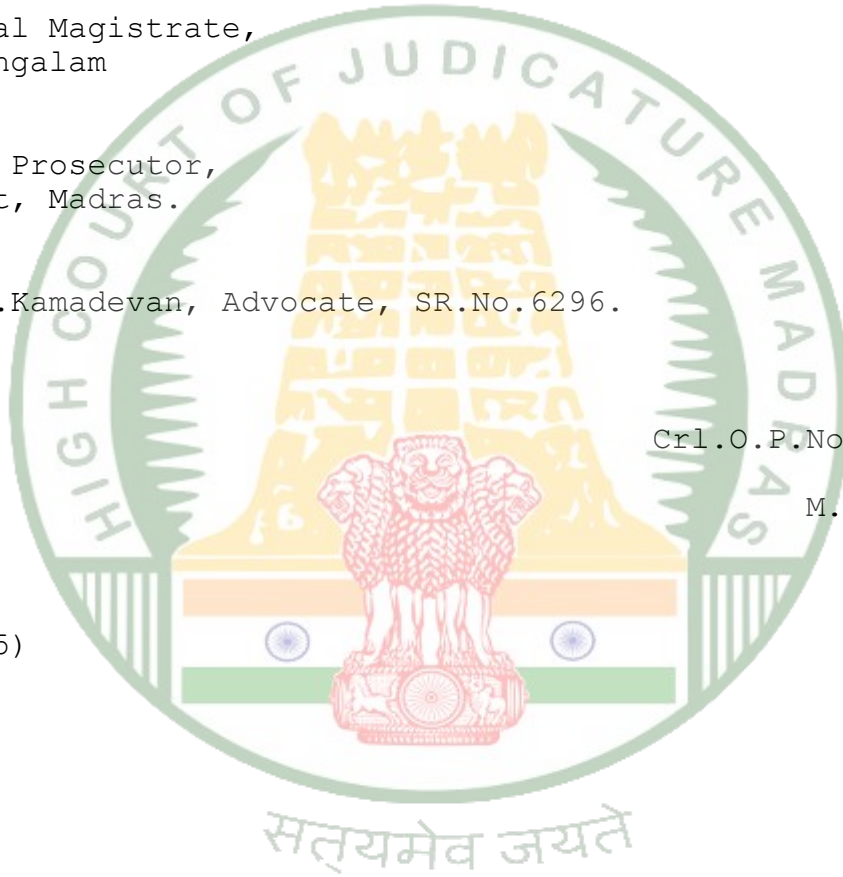
2.The Judicial Magistrate,
Sathiyamangalam

3.The Public Prosecutor,
High Court, Madras.

C.C. to Mr.S.Kamadevan, Advocate, SR.No.6296.

CrI.O.P.No.13251 of 2009
And
M.P.No.1 of 2009

LRS (CO)
KP(24.02.2015)



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