

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.No.28473 of 2018

and

Crl.M.P.Nos.16567 and 16568 of 2018

S.V.Sridharan

.... Petitioner

Vs.

State rep. By,
The Inspector of Police,
B-14, Kuniyamuthur Police Station,
Coimbatore.

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in C.C.No.128 of 2016 on the file of VII Judicial Magistrate, Coimbatore and quash the same.

For Petitioner : Mr.Ramesh Kumar Chopra

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed seeking to quash the proceedings in C.C.No.128 of 2016, pending on the file of VII Judicial Magistrate, Coimbatore.

2.The petitioner has been added as A4 in the final report. It is seen from the record that, insofar as this petitioner is concerned a final report has been filed only for an offence u/s. 182 of IPC.

3.The learned counsel for the petitioner would submit that for an offence under Section 182 of IPC., the same cannot be investigated by the police and the court below cannot take cognizance based on the report filed under section 173(2) of Cr.P.C. The learned counsel would further submit that for the offence punishable under Section 182 of IPC, the Court can take cognizance only based on the complaint filed by a public servant authorised in this regard, in view of the provision under Section 195-1(b)(i). Therefore, the learned counsel would

submit that the entire proceedings against the petitioner is vitiated.

4.This Court is of the considered view that the Court below has mechanically taken cognizance against the petitioner in this case. Taking cognizance is a judicial act and it requires application of mind. There is nothing to indicate that the Court below has applied its mind before taking cognizance against the petitioner.

5.In view of the specific bar contained under Sections 195-1(b)(i), the final report filed against this petitioner for an offence under Section 182 of IPC is clearly unsustainable. Therefore, the proceedings against this petitioner needs to be interfered.

6.In the result, the proceedings in C.C.No.128 of 2016 on the file of the VII Judicial Magistrate, Coimbatore is herein quashed insofar as this petitioner is concerned.

7.Accordingly, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gsp/rm

To

1.The VIIth Judicial Magistrate,
Coimbatore.

2.The Inspector of Police,
B-14, Kuniyamuthur Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.Ramesh Kumar Chopra, Advocate sr.no.84826

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nr 20/12/2018