



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Cr1.O.P. (MD) .No.2864 of 2013

and

M.P(MD) Nos.2 and 3 of 2013

E.T.Samson,
Additional Superintendent of Police,
Special division SBCID,
Office of the Director General of Police,
Chennai.

... Petitioner/Accused No.2

Vs.

O.M.H.Mohammed Hussain

... Respondent/ Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.8 of 2009 on the file of the Chief Judicial Magistrate, Sivagangai, quash the private complaint filed by the respondent in C.C.No.8 of 2009 on the file of the Chief Judicial Magistrate, Sivagangai.

For Petitioner	: Ms.J.Anandhavalli
	For M/s.Antony S.Prabhakar
For Respondent	: Mr.J.Lawrance

O R D E R

The petitioner was working as a Deputy Superintendent of Police, Sivagangai in the year 2008.

2.The respondent herein has filed C.C.No.8 of 2009 on the file of the Chief Judicial Magistrate Court, Sivagangai against four Police personnel alleging commission of certain offences on their part.

3.A reading of the compliant would show that the petitioner herein has acted only in the discharge of his official duties. The petitioner admittedly is an officer, removable only by the Government. Therefore, in such a case prior sanction of the Government is required before the complaint is taken on file by the Court concerned.

Section 197 of Cr.P.C reads as under:-

"When any person who is the public servant not
from his office save by or with the sanction
of the Government is accused of any offence alleged to
have been committed by him while acting or purporting



to act in the discharge of his official duty, no Court shall take cognizance of such offence except with the previous sanction of the Government concerned."

4. Admittedly, in this case, the sanction of the Government has not been obtained. Therefore, there is a statutory bar against taking cognizance. Since this statutory prohibition has not been taken into account while taking cognizance, this Court is of the view that the impugned proceedings are liable to be quashed as far as the petitioner is concerned.

5. This Criminal Original Petition stands allowed accordingly. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar/

To

The Chief Judicial Magistrate,
Sivagangai.

+1cc to Mr. J. Lawrance, Advocate in SR. No. 68725
+1cc to M/s. Antony S. Prabhakar, Advocate in SR. No. 68751
tsg/cp
MK/SB/SAR 1/29.06.2018/2P/4C

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