

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Cr1.O.P.No.15846 of 2016
and
Cr1.M.P.No.7758 of 2016

M.Ashokan

... Petitioner

/Vs./

The Sub Inspector of Police,
(Law & Order),
Kothagiri Police Station,
Nilgiris District.

... Respondent

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the records pertaining to STC No.724 of 2015, on the file of the learned Judicial Magistrate, Kothagiri, Nilgiris District and quash the same.

For Petitioner :Mr.V.Karthikeyan
For Respondent :Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The petitioner herein has been charged by the respondent police for the offence under Section 188 IPC through an impugned charge sheet dated 10.01.2012. The charge sheet has been laid on the basis of the investigation conducted in FIR No.415 of 2011 by the respondent police.

2. The law with regard to the procedure to be adopted for an offence under Section 188 IPC has been well settled through a catena of judgments. As a matter of fact, the very procedure contemplated under Section 195 Cr.P.C., is patently clear to the effect that a police officer cannot take cognizance of an offence falling within Sections 172 to 188 IPC and the procedure for such prosecution is contemplated only under Section 195 Cr.P.C. Consequently, the jurisdictional Court is also deprived of taking cognizance of an offence under Section 188 IPC, based on a police report filed under Section 173 (2) Cr.P.C. Such an

offence can be only by way of a complaint by the concerned public servant as contemplated under Section 195 Cr.P.C.

3. In the instant case, the respondent police had chosen to register the FIR against the petitioner herein for the offence under Section 188 IPC and has also filed a report, which is opposed to the aforesaid procedure laid down. On this short ground, impugned charge sheet is liable to be quashed.

4. For the foregoing reasons, impugned charge sheet in STC No.724 of 2015, on the file of the learned Judicial Magistrate, Kothagiri, Nilgiris District stands quashed. Accordingly, Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Kothagiri, Nilgiri District.

2.The Sub Inspector of Police,
(Law & Order),
Kothagiri Police Station,
Nilgiris District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Karthikeyan, Advocate sr.81415

Order made in
Cr1.O.P.No.15846 of 2016

gmr(co)
nr 24/02/2020

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