

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.3354 of 2019
and
CRL.M.P.Nos.2174 & 2175 of 2019

1.Mainar Gurush @ Venkatagiriyappa,
S/o.Lakshmaiah.
2.Vanjinathan,
S/o.Palani. Petitioners/Accused
Vs.

The State Represented by
The Inspector of Police,
Denkanikottai Police Station,
Law & Order,
Denkanikottai,
Krishnagiri District.Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, to call for the records in C.C.No.177 of 2016 on the file of the District Munsif Cum Judicial Magistrate Court, Denkanikottai and quash the same.

For Petitioners : Mr. R.Thirumoorthy
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to quash the charge sheet laid in C.C.177 of 2016 on the file of the District Munsif Cum Judicial Magistrate Court, Denkanikottai.

2. The final report has been filed by the respondent police for an offence under Sections 188, 171 (G) of IPC and 12, 13 of Press and Registration of Books Act, 1967.

3. The learned counsel for the petitioner primarily raised two issues. The first issue is that the informant and the investigator in this case are the same person and therefore, the entire investigation is vitiated and the final report is liable to be quashed on this ground alone. In order to substantiate his submission, the learned counsel for the petitioner relied upon the

recent Judgment of the Hon'ble Supreme Court reported in 2018 SCC Online SC 974 [Mohan Lal versus State of Punjab].

4. The second issue that was raised by the learned counsel for the petitioner is that the respondent police could not have filed a final report under Section 188 of IPC and it has been held by the reported Judgement of this Court in 2018 2 LW 606 [Jeevanandham and others Vs. State Rep. by Inspector of Police and another], that a final report under Section 188 of IPC cannot be taken cognizance on a police report filed under Section 173(2) Cr.P.C and it can be taken cognizance only based on the complaint given by the concerned public servant, in the light of Section 195 of the Code. The learned counsel would further submit that the allegations made in the final report does not attract the provisions of Sections 171(G) of IPC and 12, 13 of Press and Registration of Books Act, 1967. The punishment for the offence u/s.171(G) of IPC is only fine and as such the final report should be filed within six months. The respondent filed the final report after the period of six months from the date of the alleged occurrence. Therefore, the learned Magistrate ought not to have taken cognizance.

5. This Criminal Original Petition has to be allowed on the very first issue that has been raised by the learned counsel for the petitioner. It is seen that the complaint, investigation and also the final report has been filed by the very same police officer. Therefore, the entire investigation stand vitiated and the facts of this case is squarely covered by the Judgment of the Hon'ble Supreme Court referred supra.

6. In the result, the proceedings in C.C.No.177 of 2016 on the file of the District Munsif cum Judicial Magistrate Court, Denkanikottai, is hereby quashed. Accordingly, this Criminal Original Petition is allowed. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif cum Judicial Magistrate,
Denkanikottai.

2.The Inspector of Police,
Denkanikottai Police Station,
Law & Order, Denkanikottai,
Krishnagiri District.

3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.R.Thirumoorthy , Advocate SR.No. 11249
CRL.O.P.No.3354 of 2019
and
CRL.M.P.No.2174 & 2175 of 2019

A.SK(13/03/2019)



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