

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 03.07.2019
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
Crl.OP Nos.17234 of 2019
and
Crl.MP.No.8696 of 2019

U.K.Shanmugham

.. Petitioner

.Vs.

1.State rep.by
Inspector of Police,
Erode North Police Station,
Erode District.

(Crime No.853 of 2018)

2.V.Shankar,
Sub Inspector of Police,
Erode North Police Station,
Erode District.

..Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the Impugned FIR in Cr.No.853 of 2018 dt.26.11.2018 for offences under Section 151 of Cr.P.C., pending on the file of the respondent No.1 and quash the same.

For Petitioner : Mr.T.Lajapathy Roy

For Respondents: Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Original Petition has been filed seeking to quash the FIR in Cr.No.853 of 2018 registered under Section 151 of Cr.P.C., against the petitioner.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent Police.

3. This Court already had an occasion to consider the very same issue and had quashed the proceedings in Crl.O.P.[MD]. No.5263 of 2019 by an order dated 23.04.2019. The relevant portions of the order is extracted hereunder:

"3. The learned counsel for the petitioners submitted that the petitioners herein are the part of the Association of Government Employees and they are alleged to have participated in an agitation demanding certain benefits from the Government and the case under Section 151 of Cr.P.C., came to be registered. He added that Section 151 of Cr.P.C., is not a penal provision, but it only enables preventive detention for a period not exceeding 24 hours when the Police Officer comes to know of a design to commit any cognizable offence by anybody and enable the Police Officer to arrest the person so designing without warrant.

4. There is merit in the submissions of the learned counsel for the petitioners. Section 151 of Cr.P.C., reads under:

"(1) A police officer knowing of a design to commit any cognizable offence may arrest, without orders from a Magistrate and without a warrant, the person so designing, if it appears to such officer that the commission of the offence cannot be otherwise prevented.

2) No person arrested under sub-section (1) shall be detained in custody for a period exceeding twenty-four hours from the time of his arrest unless his further detention is required or authorised under any other provisions of this Code or of any other law for the time being in force."

5. As rightly argued, this provision only enables preventive detention for a period of not exceeding 24 hours subject to the condition that if the Police Officer has come to know that the persons to be detained under the said provision have design to commit any cognizable offences, and arresting them after obtaining necessary orders from the Magistrate under warrant is not feasible.

6. Inasmuch as Section 151 Cr.P.C., is not a penal provision, no case can be registered. Secondly on the expiry of 24 hours the proceeding dies on its own.

7. Seen from whichever angle, nothing can be justified to the continuous existing of the FIR in Crime No.326 of 2018 and it is liable to be quashed. accordingly FIR in Crime Nos.326 of 2018 is quashed and this Criminal Original

Petition is allowed. Consequently, connected Miscellaneous Petition is closed".

4. The above order will squarely apply to the facts of the present case.

5. In the result, the FIR in Cr.No.853 of 2018, is hereby quashed and accordingly this Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

KP

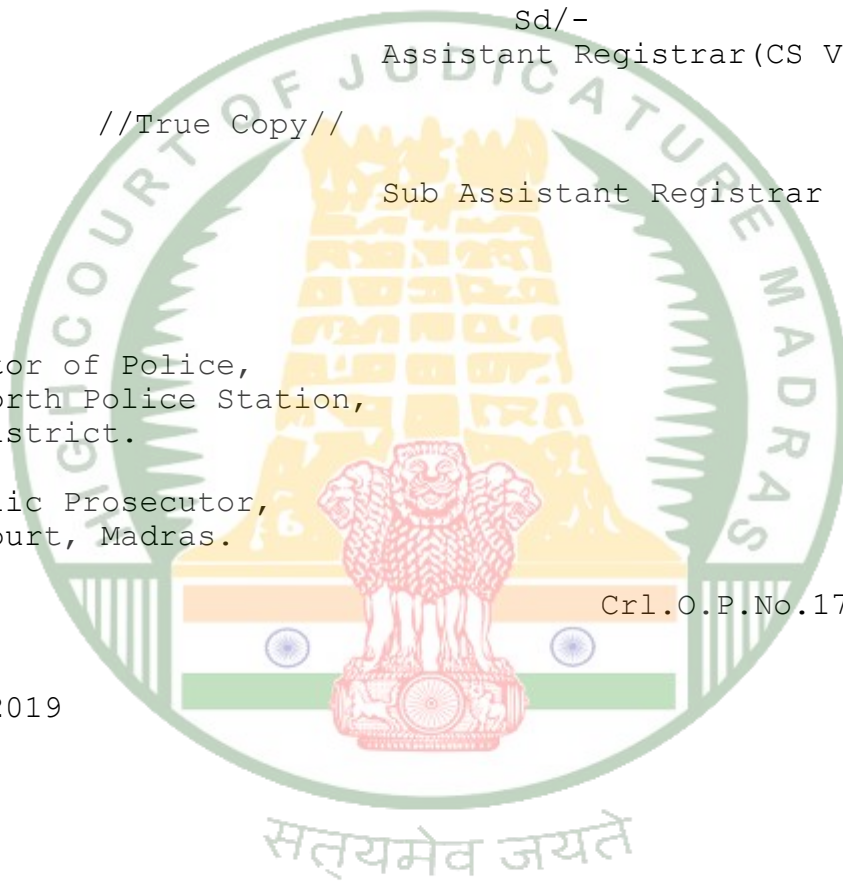
To

1. Inspector of Police,
Erode North Police Station,
Erode District.

2.The Public Prosecutor,
High Court, Madras.

Cr1.O.P.No.17234 of 2019

ss(co)
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