



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.02.2019

CORAM

THE HONOURABLE MR. JUSTICE N. SESHASAYEE

Crl.O.P. (MD) No.1777 of 2019

and Crl.M.P. (MD) Nos.958 and 959 of 2019

1.R.Rajkumar
2.Mariselvam
3.Arumugam
4.K.G.Sriram
5.Jevanandham
6.Baskaran

... Petitioners / accused Nos.1 to

-Vs-

1.The State Through,
The Sub-Inspector of Police,
B6 Jaihindupuram Police Station,
Madurai District. ... 1st Respondent / Complainant
2.A.Ganesan ... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to call for the records connected with the case in
S.T.C.No.1591 of 2018 on the file of the learned Judicial Magistrate
No.IV, Madurai and quash the same as illegal.

For Petitioners : Mr.R.Alagumani

For R1 : Mr.A.P.G.OHM Chairma Prabhu,
Government Advocate (Crl.Side)

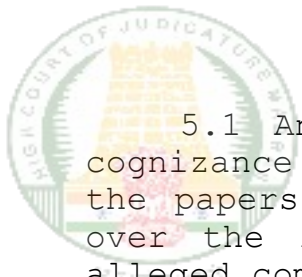
ORDER

The present petition is filed to quash the case in
S.T.C.No.1591 of 2018 on the file of the learned Judicial Magistrate
No.IV, Madurai.

2.Heard the learned counsel for the petitioners and the learned
Government Advocate (Crl.side) appearing for the first respondent.

3. Initially, the case was registered by the first respondent
police on the allegation that the petitioners placed a Vinayagar
statute in a public place by disobeying the order of the respondent
police.

4. The learned Government Advocate (Crl.Side) appearing for the
first respondent would submit that the case has since been charge
sheeted under Sections 341 and 188 IPC.



5.1 Any complaint under Section 188 I.P.C., cannot be taken cognizance and it is not cognizable offence. This Court on perusing the papers satisfied that Section 341 IPC is inserted only to get over the initial lapse in not preferring the complaint for the alleged commission of offence under Section 188 IPC.

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5.2 This Court vide its judgment in **Jeevanandham and Others Vs. State rep. By Inspector of Police, Velayuthampalayam Police Station, Karur District and another** [2018-2-L.W.(Crl.)606] has already held that the court can take cognizance under Section 188 IPC only on the basis of a complaint preferred before the Magistrate by the concerned public servant. This Court is in agreement with the reasoning of the said judgment.

6. In view of the same, the present petition is allowed and the case in S.T.C.No.1591 of 2018 on the file of the learned Judicial Magistrate No.IV, Madurai is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To:

- 1.The Sub-Inspector of Police, B6 Jaihindupuram Police Station, Madurai District.
 - 2.The Judicial Magistrate No.IV, Madurai.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1cc to Dr.R.Alagumani, Advocate in SR.No.45281

RR/03.05.2019/2P/5C

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