



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :30.04.2019

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THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P. (MD)Nos.2115 and 2132 of 2019

and Crl.M.P. (MD)Nos.1119 , 1120, 1126 and 1127 of 2019

In Crl.O.P. (MD)No.2115 of 2019:

- 1.Selvaraj,
S/o.Murugana Gounder
- 2.Senthil Kumar
- 3.Selvaraj
S/o.Thirumalaisamy
- 4.Panneerselvam
- 5.Sakthivel
- 6.Dhandapani
- 7.Karuppasamy
- 8.Arumugam
- 9.Magudeeswaran
- 10.Subramani
- 11.Ramasamy
- 12.Segamalai
- 13.Veeran
- 14.Selvaraj
S/o.Karuppasamy
- 15.Murugan

... Petitioners / accused Nos.1 to 15

-Vs-

1. State rep. By
The Inspector of Police,
Ayakudi Police Station,
Dindigul District.
(Crime No.41 of 2017)

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records relating to the case in S.T.C.No.572 of 2018 on the file of the learned Judicial Magistrate, Palani and quash the same.

In Crl.O.P. (MD)No.2132 of 2019:

- 1.Maniyan
- 2.Selvaraj
- 3.Jeganathan
- 4.Manivannan
- 5.Chinnadurai
- 6.Kittusamy
- 7.Magudeeswaran
- 8.Perumal
- 9.Dhandapani
- 10.Marutharaj @ Muthuraj
- 11.Ramamoorthy



12.Thirumalaisamy
13.Karthikeyan
14.Kandimuthu
15.Selvam

... Petitioners / Accused Nos.1 to 15

-Vs-

State rep.by
The Inspector of Police,
Ayakudi Police Station,
Dindigul District.
(crime No.42 of 2017)

... Respondent / Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records relating to the case in S.T.C.No.573 of 2018 on the file of the learned Judicial Magistrate, Palani and quash the same.

In both petitions:

For Petitioners	: Mr.R.Jegadeeswaran
For Respondent	: Mr.V.Neelakandan
	Additional Public Prosecutor

C O M M O N O R D E R

The present petitions are filed to quash the case in S.T.C.Nos.572 and 573 2018 on the file of the learned Judicial Magistrate, Palani.

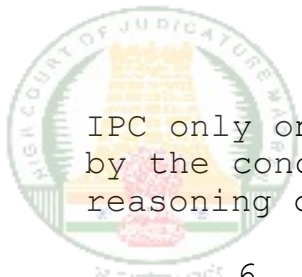
2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

3. Initially, the cases were registered by the respondent police on the allegation that the petitioners unlawfully assembled in front of Pachalanayakanpatti Ration shop and raised slogan against the State.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the cases have since been charge sheeted in S.T.C.Nos.572 and 573 2018 on the file of the learned Judicial Magistrate, Palani for the offences under Sections 143 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 143 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.

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 petitions are allowed and the cases in S.T.C.Nos. 572 and 573 of 2018 on the file of the learned Judicial Magistrate, Palani, are hereby quashed. Consequently, connected miscellaneous petitions are closed.

sd/
Assistant Registrar(crl. side)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,
Palani
 2. The Inspector of Police,
Ayakudi Police Station,
Dindigul District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +2.CC. To Mr.R.Jegadeeswaran, Advocate in SR No.64254,64253

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