



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P. (MD)No.2319 of 2019

and

Crl.M.P. (MD)Nos.1240 and 1241 of 2019

P.Arivalagan

... Petitioner

Vs.

The State through,
The Sub Inspector of Police,
Sedapatty Police Station,
Madurai District.
(Crime No.61 of 2016)

... Respondent

PRAYER : Petition filed under Section 482 of Criminal Procedure Code, to call for the records relating to the impugned Charge Sheet in S.T.C.No.490 of 2016 on the file of the Learned District Munsif cum Judicial Magistrate, Peraiyur, Madurai District and quash the same in so far as the petitioner alone.

For Petitioner : Mr.A.Mithun Chakravarthi
For Respondent : 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.490 of 2016 on the file of the Learned District Munsif cum Judicial Magistrate, Peraiyur, Madurai District.

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 conducted Aadal Padal function without getting necessary permission.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the case has since been charge sheeted under Sections 188 and 143 IPC.

5.1 Any complaint under Section 188 I.P.C., cannot be taken cognizance and it is not cognizable offence.

5.2 This Court vide its judgment in **Jeevanandham and Others Vs. State rep. By Inspector of Police, Velayuthampalayam Police Station, Madurai 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.490 of 2016 on the file of the Learned District Munsif cum Judicial Magistrate, Peraiyur, Madurai District is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

CM

To

1.The District Munsif Cum Judicial Magistrate, Peraiyur,
Madurai District.

2.The Sub Inspector of Police,
Sedapatty Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

1 CC to M/s.A.MITHUN CHAKRAVARTHI, Advocate (SR-49702[F] dated
26/02/2019)

Cr1.O.P. (MD)No.2319 of 2019

and

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