



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.02.2019

Pronounced on : 30.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

WEB COPY

CRL.O.P. (MD)No.2718 of 2019
and Crl.M.P. (MD)No.1494 of 2019

A.Balagurusamy : Petitioner/ Accused No.1

-Vs-

1.State

Inspector of Police,
SIPCOT Police Station,
Tuticorin. : 1st Respondent/Complainant

2.A.Balaru : 2nd Respondent / De facto complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in Crime No.59 of 2017 on the file of the first respondent police and quash the FIR against the petitioner/accused in Crime No.59 of 2017 on the file of the first respondent police.

For Petitioner : Mr.K.A.Raamakrishnan
For R-1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. side)

O R D E R

The present petition is filed to quash the First Information Report in Crime No.59 of 2017 on the file of the first respondent police.

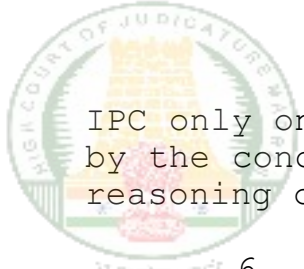
2.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.side) appearing for the first respondent.

3. Initially, the case was registered by the first respondent police on the allegation that the petitioner and others agitated before Muthammal Colony ration shop, when the prohibitory order was in force.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the case has been registered 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, First Information Report in Crime No.59 of 2017 on the file of the first respondent police is hereby quashed.

7. In the result, this Criminal Original Petition is allowed. Consequently, connected CrI.M.P.(MD)No.1494 of 2019 is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Sipcot Police Station, Tuticorin.

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

+1cc to Mr.K.A.RAAMA KRISHNAN, Advocate, SR.No.64851

Order made in
CRL.O.P. (MD)No.2718 of 2019
and CrI.M.P. (MD)No.1494 of 2019

CM

KK/SAR/13.05.2019/ 2P- 4C