



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :27.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P. (MD) .No.2977 of 2019

and

Crl.M.P. (MD) .Nos.1633 & 1632 of 2019

- 1.Muthuraj
- 2.Muniyasamy
- 3.Thangapandi
- 4.Marimuthu
- 5.Muniyandi
- 6.Balamurugan
- 7.Ponnuchamy
- 8.Murugan

... Petitioners/ Accused Nos.1 to 8
Vs.

- 1.State represented by the
Sub Inspector of Police,
Narikudi Police Station,
Virudhunagar District.

... 1st Respondent / Complainant

(Crime No.193 of 2017)

- 2.Mr.Periyasamy,
Special Sub Inspector of Police,
Narikudi Police Station,
Virudhunagar District.

...2nd Respondent / De facto
complainant

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records in S.T.C.No.896 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai and quash the same as far as the petitioners herein.

For Petitioners
For R-1

: Mr.A.Ananda Raj
: Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl. side)

O R D E R

The present petition is filed to quash the case in S.T.C.No.896 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai.



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

3. The case was registered by the first respondent police for the offences under Sections 279, 143, 188, 353, 109 IPC and Section 179 of Motor Vehicle Act on the allegation that the petitioners did not obey the order of the District Collector, Ramanathapuram under Section 144 Cr.P.C and celebrated Immanuel Guru Pooja at Paramakudi and drove the Car in a rash manner and created communal riots.

4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that after completion of investigation, case has been charge sheeted in S.T.C.No.896 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai.

5. The learned counsel for the petitioners would submit that on similar set of allegations, a case in S.T.C.No.896 of 2018 was pending before the same court and when the same was challenged before this Court in Crl.O.P(MD)No.18495 of 2018, this Court, Vide order dated 12.10.2018, quashed the proceedings by imposing a fine of Rs.2500/- to the petitioners. The learned counsel appearing for the petitioners has produced the copy of the said order and he prays for quashing the proceedings in this case also.

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

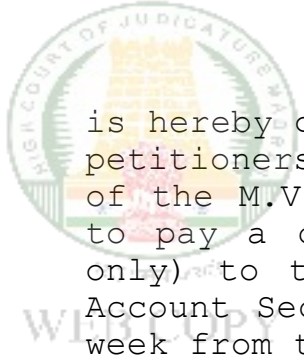
6.2 This Court vide its judgment in **Jeevanandham and Others Vs. State rep. By Inspector of Police, Velayuthampalayam Police Station, Karur District and another** [2018-2-L.W.(Crl.)606] has already held that the court can take cognizance under Section 188 IPC only on the basis of a complaint preferred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

7. So far as the offences under Section 279 IPC and Section 179 of Motor Vehicles Act are concerned, this Court in Crl.O.P.(MD) No.18495 of 2018 dated 12.10.2018 held as follows:

'This Court does not want to make the petitioners to face a trial for these two offences, since these two offences are minor in nature and directing the petitioners to pay a fine will be sufficient in order to dispose of the case'.

8. On perusing the records, there is no criminal force or assault was made against the public servant and therefore, the offence under Section 353 IPC is not made out.

9. In view of the above, the proceedings in S.T.C.No.896 of 2018, on the file of the learned Judicial Magistrate, Aruppukkottai



is hereby quashed. Since there are *prima facie* materials against the petitioners for the offences under Section 279 IPC and Section 179 of the M.V. Act, this Court deems it fit to direct the petitioners to pay a cost of Rs.2500/- (Rupees two thousand and five hundred only) to the credit of the Chief Justice Relief Fund (payable in Account Section of the High Court Registry) within a period of one week from the date of receipt of a copy of this order.

10. In fine, this Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate,
Aruppukkottai

2. The Sub Inspector of Police,
Narikudi Police Station,
Virudhunagar District.

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

4. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.A.Anandaraj, Advocate, SR.No.50360

**Cr1.O.P. (MD) .No.2977 of 2019
and**

**Cr1.M.P. (MD) .Nos.1633 & 1632 of 2019
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KK/SAR/09.05.2019/ 3P- 6C