



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P. [MD].No.3248 of 2019

and CRL.M.P. (MD) Nos.1831 and 1832 of 2019

WEB COPY

1.Kamaladhas
2.Venkateson
3.Rajan
4.Vinu
5.Makesh
6.Varun
7.Agustin
8.Sivaraj

... Petitioners

Vs.

1.The State Represented through
The Inspector of Police,
Puthukadai Police Station,
Puthukadai Post,
Kanyakumari District.
(Crime No.25 of 2015)

...1st Respondent / Complainant

2.M.P.Merlin

... 2nd Respondent / Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records relating to the case in S.T.C.No.13 of 2016 on the file of the Judicial Magistrate Court No.II, Kuzhithurai and quash the same.

For Petitioners : Mr.V.H.S.Prathap
For R1 : Mr.A.P.G.OHM.Chairma Prabhu,
Government Advocate [Crl. Side]

O R D E R

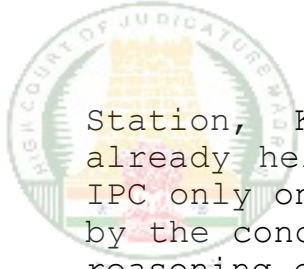
This Criminal Original Petition has been filed to quash the proceedings in S.T.C.No.13 of 2016, pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District. A final report has been filed for the offences under Sections 143, 188 and 353 IPC.

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

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

<https://hcservices.ecourts.gov.in/hcservices/>

3.1 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.

4. Insofar as the offence under Section 353 IPC is concerned, no case has been made out and the alleged offence is intrinsically connected with the other offences under Sections 188 and 143 IPC. Therefore, the final report is liable to be quashed even insofar as the offence under Section 353 IPC is concerned.

5. In view of the above, the proceedings in S.T.C.No.13 of 2016 pending on the file of the learned Judicial Magistrate No.II, Kuzhithurai, Kanyakumari District is hereby quashed.

6. In the result, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No.II, Kuzhithurai.

2. The Inspector of Police, Puthukadai Police Station, Puthukadai Post, Kanyakumari District.

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

+1cc to Mr.K.ESAKKI, Advocate, SR.No.51480

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CM

KK/SAR/09.05.2019/ 2P- 5C