

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 05.03.2019****CORAM****THE HONOURABLE MR.JUSTICE N.SESHASAYEE**

Cr1.O.P.(MD)No.3355 of 2019
and Cr1.M.P.(MD)No1896 of 2019

1.Vignesh
2.Gurusamy

... Petitioners / Accused Nos.14 and 98

Vs.

1.State Rep. By the
The Inspector of Police,
Thideer Nagar Police Station,
Madurai City,
(Crime No.43 of 2018)

...1st Respondent / Complainant

2.K.John

... 2nd Respondent / Defacto Complainant

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to call for the records pertaining to the proceedings First Information Report in Crime No.43 of 2018 dated 25.01.2018 on the file of the first respondent police for the alleged offences under Sections 143, 341, 188 of IPC and quash the same as illegal.

For Petitioners : Mr.V.Selva
For R1 : Mr.A.P.G.OHM Chairma Prabhu,
Government Advocate (Cr1.Side)

O R D E R

The present petition is filed to quash the First Information Report in Crime No.43 of 2018 dated 25.01.2018 on the file of the first respondent police.

2.Heard the learned counsel for the petitioners and the learned Government Advocate (Cr1.side) appearing for the first respondent.

3. Initially, the case was registered by the first respondent police on the allegation that the petitioners and others were conducting road roko and demonstration when the prohibitory order was in force.

4.1 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 341 IPC is inserted only to get cognizance of the offence. In this case, there is a lapse in not preferring the complaint for the alleged commission of offence under Section 188 IPC.



4.2 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.

5. In view of the same, the First Information Report in Crime No.43 of 2018 dated 25.01.2018 on the file of the first respondent police is hereby quashed.

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

Sd/-

Assistant Registrar (W)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Inspector of Police, Thideer Nagar Police Station,
Madurai City.

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

+1cc to Mr.V.SELVA, Advocate, SR.No.52311

Crl.O.P. (MD)No.3355 of 2019
and Crl.M.P. (MD)No1896 of 2019
05.03.2019

CM
KK/SAR/09.05.2019/ 2P- 4C

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