



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

WEB COPY

CRL.O.P. (MD) No.3743 of 2019

- 1.Lingam
- 2.Bala @ Babu
- 3.Prakatheesh
- 4.Annakamu
- 5.Ponmudi
- 6.Dharmaraj
- 7.Chithra
- 8.Annadurai
- 9.Sivakami
- 10.Selvi
- 11.Nagammal
- 12.Chinnathambi
- 13.Alaguraja
- 14.Muttaikannan @ Mani
- 15.Suresh @ Thakkali Suresh
- 16.Ramanathan
- 17.Pitchaimani
- 18.Kannan
- 19.Ashok
- 20.Kanthasamy
- 21.Prem @ Premkumar
22. Sasikumar
- 23.Dhileep
- 24.Balu
- 25.Sabarinathan @ Sabari

: Petitioners / Accused

-Vs-

State through
The Inspector of Police,
Sholavandan Police Station,
In Crime No.240 of 2018

:Respondent/Complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in connection with Crime No.240 of 2018 on the file of the respondent and quash the same.

For Petitioners : Mr.Arunagiri
For Respondent : 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 240 of 2018 on the file of the respondent police for the offences under Sections 143 and 188 IPC.



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

3. Initially, the case was registered by the respondent police on the allegation that the petitioners and others shouted before the police station regarding arrest of other accused.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the case has been registered for 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, the First Information Report in Crime No.240 of 2018 on the file of the respondent police, is hereby quashed.

7. In the result, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (T & P)

// True Copy //

Sub Assistant Registrar (CS)

CM

To

1.The Inspector of Police,
Sholavandan Police Station



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

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+1CC TO MR.ARUNAGIRI, Advocate Sr. No. 53212

Order made in
CRL.O.P. (MD) No.3743 of 2019

AVS (CO)
TR (27.05.2019) 3P 4C