



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.04.2019

CORAM:

THE HONOURABLE **MR. JUSTICE N. SESHASAYEE**

Crl.O.P. (MD) No. 4729 of 2019

WEB COPY

Murugan

... Petitioner/ Accused No.16

/Vs./

The State represented through,
The Inspector of Police,
Thiruppachethi Police Station,
Sivagangai District.
[Crime No.70 of 2017]

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C to direct the learned Judicial Magistrate, Manamadurai, to take the charge sheet on file which was filed by the respondent police on 13.03.2017 in connection with Crime No.70 of 2017 and numbering the same consequently direct the learned Judicial Magistrate, Manamadurai to expedite the trial as expeditiously as possible.

For Petitioner

: Mr.R.Manikandan

For Respondent

: Mr.V.Neelakandan

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the learned Judicial Magistrate, Manamadurai, to take the charge sheet on file which was filed by the respondent police on 13.03.2017 in connection with Crime No.70 of 2017 and numbering the same consequently direct the learned Judicial Magistrate, Manamadurai to expedite the trial as expeditiously as possible.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor.

3. The learned counsel appearing for the petitioner submitted that the petitioner and others were implicated in Crime No.70 of 2017 for the offences under Sections 143 and 188 IPC by the respondent police, that the petitioner has moved this Court earlier in Crl.O.P.(MD)No.10179 of 2018 to quash the FIR, in which, the learned Additional Public Prosecutor had made a statement that the final report has been laid on the same day on which the case was registered. Accordingly, this Court has also dismissed the petition in Crl.O.P.(MD)No.10179 of 2018. However, when the petitioner moved the concerned Magistrate Court, he came to know that no final report has been filed.

4. The learned Additional Public Prosecutor submitted that both the statements are true. In that, the charge sheet was earlier laid

and the same was returned by the Magistrate.

5. On a reading of the FIR, it is evident that the respondent police has registered a case without obtaining a direction of the Court under Section 195 Cr.P.C. This Court vide its judgment reported in **2018-2-L.W. (Crl.) 606 [Jeevanandham and Others Vs. State rep. By Inspector of Police, Velayuthampalayam Police Station, Karur District and another]** dated **06.09.2018**, 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 above, even the FIR in Crime No.70 of 2017 cannot stand legally and therefore, this Court quashes the FIR in Crime No.70 of 2017 itself and accordingly, this criminal original petition is allowed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Inspector of Police,
Thiruppachethi Police Station, Sivagangai District.

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

+1CC to Mr.R.MANIKANDAN , Advocate SR.No. 58436.

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