



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P. (MD)No.4740 of 2019

- 1.Thirumalai
- 2.V.Sasi Kumar
- 3.Jayakumar
- 4.Mariya David
- 5.Rajamani
- 6.Santhanam
- 7.Radha Krishnan
- 8.Nachadai Eswaran
- 9.Manickam
- 10.Veera Santhanam
- 11.Jaya Kumar
- 12.Govindaraj
- 13.Pitchaikani
- 14.Jothi Lakshmi

: Petitioners / Accused Nos.1 to 14
-Vs-

- 1.The State represented by the
Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.
(Crime No.15 of 2018)

: 1st Respondent / Complainant

- 2.P.Asokan,
Inspector of Police,
Srivilliputhur Town Police Station,
Virudhunagar District.

: 2nd Respondent / De facto complainant

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records in C.C.No.466 of 2018, on the file of the Judicial Magistrate Court No.II, Srivilliputhur and quash the same as illegal, abuse process of law.

For Petitioners

: Mr.M.Jothi Basu

For R-1

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

O R D E R

The present petition is filed to quash the proceedings in C.C.No.466 of 2018, on the file of the Judicial Magistrate Court No.II, Srivilliputhur.

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

3. Initially, the case was registered by the first respondent police on the allegation that the petitioners have caused disturbance to the public by conducting demonstration.



4. The learned Government Advocate (Crl.Side) appearing for the first respondent would submit that the case has been charge sheeted under Sections 143 and 188 IPC.

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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 case in C.C.No.466 of 2018, on the file of the Judicial Magistrate Court No.II, Srivilliputhur, is hereby quashed.

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

Sd/-

Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar(CS)

To

1. The Judicial Magistrate Court No.II,
Srivilliputhur.

2. The Inspector of Police,
Srivilliputtur Town Police Station,
Virudhunagar District.

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

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-58681[F]
dated 03/04/2019)

CRL.O.P. (MD) No.4740 of 2019

KK:03/05/2019/3P/5C

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