



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

Crl.O.P. [MD]No.4896 of 2019

and

Crl.M.P. (MD)Nos.3043 and 3044 of 2019

WEB COPY

1.K.Krishnasamy
2.M.Rajendran
3.A.Natarajan
4.K.Mariyappan
5.M.Paulsamy
6.P.Rajapandi
7.M.Subburaj

: Petitioners

/Vs./

1.State rep.by
The Inspector of Police,
Town Police Station,
Srivilliputhur,
Virudhunagar District.
(Crime No.635 of 2014)

2.V.Sanjeevi Raj : Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records in S.T.C.No.88 of 2016 on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District, quash the same.

For Petitioners : Mr.C.T.Perumal
For R1 : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

O R D E R

The present petition is filed to quash the case in S.T.C.No.88 of 2016 on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar District.

2.Heard the learned counsel for the petitioners 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 and others were conducting road roko and demonstration when the prohibitory order was in force. After completion of investigation, case was taken on file in S.T.C.No.88 of 2016 on the file of the Judicial Magistrate

No.II, Srivilliputhur, Virudhunagar District.

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 over the initial 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, S.T.C.No.88 of 2016 on the file of the Judicial Magistrate No.II, Srivilliputhur, Virudhunagar 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,
Srivilliputhur,
Virudhunagar District,

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

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

+1cc to Mr.C.T.Perumal, Advocate, SR.No. 59370

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