



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :03.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

Crl.O.P. (MD) .No.4900 of 2019

and

Crl.M.P. (MD) .No.3045 of 2019

WEB COPY

- 1.T.Kathirean
- 2.G.G.Ayyavu Pandian @ Muneeswaran
- 3.V.Jeyaraj
- 4.S.Thirumalaiappan
- 5.V.Selvakumar
- 6.Palraj
- 7.S.Jhansi Rani
- 8.M.Rakkappan
- 9.C.Annakodi
- 10.V.Alagarsami
- 11.R.Rajesh
- 12.S.Santhanam
- 13.J.Prabakaran @ Prabakaramoorthi
- 14.N.Gopal
- 15.G.Sathish @ Sathishkumar
- 16.S.Umadevan @ Umapathi
- 17.Vairamani

... Petitioners / Accused Nos.1 to 8 & 10 to 18
Vs.

State represented by the Inspector of Police,
Srivilliputhur Town Police Station,
Srivilliputhur, Virudhunagar District. ... Respondent

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the charge sheet in S.T.C.No.134 of 2017, on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Viruthunagar District and quash the same.

For Petitioners	: Mr.R.Ragavendran
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 case in S.T.C.No.134 of 2017, on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Viruthunagar District.

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

3. Initially, the case was registered by the respondent police under Sections 143 and 188 IPC on the allegation that the petitioners and others conducted Fasting at Srivilliputhur-Sivakasi main road within 100 metres from the Court. After completion of



investigation, case was charge sheeted in S.T.C.No.134 of 2017, on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Viruthunagar District.

4.1 Any complaint under Section 188 I.P.C., cannot be taken cognizance and it is not cognizable offence.

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 present petition is allowed and the case in S.T.C.No.134 of 2017, on the file of the learned Judicial Magistrate No.II, Srivilliputhur, Viruthunagar District, is hereby quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P AND A)

// True Copy //

Sub Assistant Registrar(CS)

To,

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

2.The Judicial Magistrate No.II,
Srivilliputhur,
Viruthunagar District.

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

+1cc to Mr.R.Ragavendran, Advocate, SR.No.58823

Crl.O.P. (MD) .No.4900 of 2019

and

Crl.M.P. (MD) .No.3045 of 2019

CM