



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRL.O.P. (MD) No.5990 of 2019

- 1.Murugan
- 2.Thangavel
- 3.Murugesan
- 4.Ambath Kumaresan
- 5.Kannan
- 6.Suresh Kumar
- 7.Pandi
- 8.Balasubramanian
- 9.Lazhar
- 10.Jothimani
- 11.Kannan
- 12.Theeran
- 13.Marichamy
- 14.Murugesan
- 15.Arjunan
- 16.Thavam

: Petitioners / Accused Nos.1 to 16

-Vs-

- 1.State represented by the
Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.
In Crime No.35 of 2018 : 1st Respondent / Complainant
- 2.Sirajudheen
Sub-Inspector of Police,
Sivakasi East 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 S.T.C.No.2569 of 2018 on the file of the Judicial Magistrate Court No.II, Sivakasi and quash the same as illegal.

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 S.T.C.No.2569 of 2018 on the file of the Judicial Magistrate Court No.II, Sivakasi.



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 accused have conducted a demonstration in support of TNSTC employees.

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.

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 S.T.C.No.2569 of 2018 on the file of the Judicial Magistrate Court No.II, Sivakasi, 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 Judicial Magistrate Court No.II,
Sivakasi

2.The Inspector of Police,
Sivakasi East Police Station,
Virudhunagar District.



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

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+1CC TO MR.G.M.LAW OFFICE, Advocate Sr. No.63165

Order made in
CRL.O.P. (MD) No.5990 of 2019

KG(CO)
TR (28.05.2019) 3P 5C